Voluntary Remediation Agreement
Relating to Michigan Plaza

AIMCO Michigan Meadows Holdings LLC	)
Denver, CO	)
	)
Applicant	)
	)
Voluntary Remediation at:	)
Michigan Plaza	)
Indianapolis, IN 46202	)
	)
IDEM Project #6061202	)
	)
Proceeding under	)
the Environmental	)
Management Act	)
(Indiana Code 13-25-5)	)

I. INTRODUCTION

1. The Indiana Department of Environmental Management ("IDEM"), by its Commissioner or his or her designee ("Commissioner"), and AIMCO Michigan Meadows Holdings LLC ("Applicant"), hereby enter into this Voluntary Remediation Agreement ("Agreement"), pursuant to IC § 13-25-5-8, for the purpose of remediating the release of hazardous substances or petroleum at Michigan Plaza, Indianapolis, Marion County, Indiana.

II. JURISDICTION

2. This Agreement is entered into by and between Applicant and IDEM, by its Commissioner, pursuant to IC § 13-25-5-8, hereafter collectively referred to as the "Parties."

3. The Parties agree to the following terms and conditions concerning the completion of the investigation and remediation of hazardous substances and or petroleum at the Site, including the evaluation and implementation of the Voluntary Remediation Work Plan ("Remediation Work Plan"); Applicant also agrees to waive its rights to administrative and judicial review of the binding effect and enforceability of the Agreement and to not contest the jurisdiction of IDEM to enter into this Agreement. However, the Applicant reserves all rights it may have under common law, Indiana law, and federal law to seek contribution or indemnity from others not signatories to this Agreement.

4. By entering into this Agreement, the Applicant neither admits nor denies liability.

COPY

III. STATEMENT OF ELIGIBILITY

5. The Commissioner has determined that the application submitted by Applicant is complete and that Applicant is eligible to participate in the Voluntary Remediation Program ("VRP") established under IC 13-25-5. However, Applicant's participation in the VRP is conditioned on the Applicant's satisfactory response to the issues raised in IDEM's letter of December 20, 2006, to Mr. Stephen Evanoff (a copy of which is incorporated herein and included as Attachment A), and upon an appropriate and timely response action to address hazardous substances at the site. If IDEM determines that Applicant is not taking appropriate or timely action, IDEM may terminate this agreement and Applicant's participation in the VRP. Neither the Commissioner's determination of eligibility nor the entry into this Agreement precludes any finding by the Commissioner at a later date that the Site poses an imminent and substantial threat to human health or the environment within the meaning of IC 13-25-5. In addition, if it is determined that Applicant withheld or misrepresented information that would be relevant to the Applicant's eligibility, IDEM may terminate this Agreement and Applicant's participation in the VRP.

6. If it is determined that Applicant is eligible for the Indiana Underground Petroleum Storage Tank Excess Liability Trust Fund (ELTF) pursuant to IC 13-23 and all applicable rules, Applicant may apply for reimbursement of the costs of the remediation required by this Agreement. However, Applicant expressly waives the right to claim reimbursement for costs paid to IDEM as Administrative Costs, as described in Section XIX, and for the application fee as provided in IC § 13-25-5-2. IDEM's approval of the Remediation Work Plan does not guarantee that the Applicant or the proposed remedial actions are eligible for reimbursement from the ELTF and does not constitute approval of costs under IC 13-23-9-2. Those sites that are eligible and intend to seek reimbursement from the ELTF are encouraged to consult with the ELTF Program prior to the implementation of the Remediation Work Plan to determine if the proposed remedial actions and RWP satisfies the reimbursement and reporting requirements as set forth under IC 13-23-8-4.

7. Applicant shall comply with all applicable Indiana and federal requirements for corrective action. For purposes of determining compliance with applicable Indiana and federal requirements for Leaking Underground Storage Tank ("LUST") remediation and for determining eligibility for the ELTF, IDEM will evaluate the Remediation Work Plan for consistency with guidance applicable to the LUST Program and ELTF. Applicant shall notify the IDEM Project Manager if this evaluation is desired.

IV. PARTIES BOUND

8. This Agreement shall apply to and be binding upon the Applicant, its officers, directors, principals, employees, agents, successors, subsidiaries, and assigns, and upon IDEM, its employees, agents and successors. The signatories to this Agreement certify that they are fully authorized to execute this Agreement and legally bind the Parties they represent. No change in ownership, corporate, or partnership status of the Applicant shall in any way alter its status or responsibilities under this Agreement unless Applicant or IDEM withdraws from this Agreement.

9. The Applicant shall provide a copy of this Agreement to any subsequent owners or successors before ownership rights are transferred. The Applicant shall provide a copy of this Agreement to all contractors, sub-contractors, laboratories, and consultants that are retained to conduct any work performed under this Agreement, within fourteen (14) days after the effective date of this Agreement or within fourteen (14) days of the date of retaining their services.

V. DEFINITIONS

10. "Commissioner" shall mean the Commissioner of IDEM or her or his designee.

11. "Day" shall be defined as the 24-hour period from 12:00 A.M. up to but not including 12:00 A.M.

12. "Site" shall be used in the manner as defined by IC § 13-11-2-203(a) and includes the legal description of the facility located at 3801-3823 West Michigan Street, Indianapolis, Marion County, Indiana.

13. All other terms contained in this Agreement shall be used in the manner as defined by IC 13-11-2.

VI. STATEMENT OF PURPOSE

14. This Agreement sets forth the terms and conditions of Applicant's investigation and remediation of the Site, including the evaluation and implementation of a Remediation Work Plan to be proposed by the Applicant for the remediation of the release or threatened release of petroleum or hazardous substances from the Site.

15. The activities conducted by the Applicant under this Agreement are subject to approval by IDEM. Applicant shall satisfactorily address all issues raised in IDEM's December 20, 2006, comment letter and provide all necessary information for a Remediation Work Plan for the Site. The activities conducted by the Applicant shall be consistent with this Agreement (including Attachment A), all applicable laws and regulations, and appropriate guidance documents as described in Paragraph 16. Applicant shall employ sound scientific, engineering, and construction practices.

VII. WORK TO BE PERFORMED

16. All work to be performed by the Applicant pursuant to this Agreement shall be performed under the direction and supervision of qualified person(s) with expertise in hazardous substance or petroleum site investigation and remediation. This individual may or may not be designated by Applicant as Applicant's Project Manager in Paragraph 24. Prior to the initiation of Site work, at IDEMs request, the Applicant shall notify IDEM, in writing, regarding the name, title, and qualifications of such qualified person and of any contractors and/or subcontractors to be used in carrying out the terms of this Agreement. All work performed and all documents submitted shall be in accordance with all VRP guidance documents available and in effect as of the Effective Date of this Agreement, including IDEM's *Risk-Integrated System of Closure* non-rule policy document

(Waste-0046-NPD, 24 Ind. Reg. 1986 (2001)). The Applicant may supplement this guidance with guidance or other documents approved by VRP. Guidance documents identified in this Agreement are named for the convenience of the Applicant; the failure to specify a specific guidance document in this Agreement shall not be construed as a limitation on the applicability of a guidance document.

17. Applicant may, at Applicant's discretion, submit to IDEM an Investigation Work Plan detailing the investigation of the nature and extent of the contamination at the Site. The Investigation Work Plan, including the Investigation Work Plan format, shall be developed in accordance with the guidance documents specified in Paragraph 16.

(a) The Investigation Work Plan shall include the following project plans: (1) a quality assurance project plan; (2) a sampling and analysis plan; (3) a health and safety plan; (4) a schedule for implementation of all tasks set forth in the Investigation Work Plan; and (5) a data management plan.

(b) IDEM may require Applicant to submit additional or corrected information pursuant to IC § 13-25-5-9(b).

(c) The Investigation Work Plan shall be subject to review and evaluation for technical sufficiency by IDEM within approximately sixty (60) days of receipt. IDEM's failure to act on the Investigation Work Plan shall not constitute IDEM's acceptance of the Investigation Work Plan. Acceptance of the Investigation Work Plan by the IDEM Project Manager shall not preclude IDEM from requiring further investigation before final approval of the Remediation Work Plan is given.

18. The Applicant shall submit a Remediation Work Plan not later than one hundred eighty (180) days after the date this Agreement is executed, or longer if an extension is agreed to by the Parties. If Applicant fails to submit the Remediation Work Plan within that period, the Agreement is voidable at the discretion of IDEM. If IDEM determines the Agreement is void, all protection provided under IC § 13-25-5-18(e) is extinguished. In the event this Agreement is voided, the Applicant shall remain responsible to IDEM under Section XIX (Administrative Costs). The Remediation Work Plan must specify the objectives for the remediation of hazardous substances or petroleum that are based on: background levels of hazardous substances and petroleum that occur naturally on the Site; or, an assessment of the risks posed by the hazardous substances and petroleum, taking into consideration the expected future use of the Site and measurable risks to human health, natural resources, or the environment. Risk based objectives shall be based on one of the following: 1) levels of hazardous substances and petroleum calculated by IDEM using standard equations and default values for that particular contaminant; 2) levels of hazardous substances and petroleum calculated using site specific data for the default values in IDEM's standard equations; or, 3) levels of hazardous substances and petroleum developed based on site specific risk assessments that take into account site specific factors. The Remediation Work Plan, including the Remediation Work Plan format, shall be developed in accordance with the guidance documents specified in Paragraph 16.

19. The Remediation Work Plan shall include: (1) a detailed description of the investigation conducted by the Applicant in preparing the Remediation Work Plan and a description

of the work performed by the Applicant to determine the nature and extent of the actual or threatened release; (2) a proposed statement of work to accomplish the remediation in accordance with guidelines established by the department; and (3) the following project plans: (a) a quality assurance project plan, (b) a sampling and analysis plan, (c) a health and safety plan, (d) a community relations plan, (e) a schedule for implementation of all tasks set forth in the Remediation Work Plan, and (f) a data management plan. The Remediation Work Plan shall specify the land use restrictions assumed in developing the Remediation Work Plan and shall identify the institutional, engineering, or other controls that will be used to restrict land use at the Site. The community relations plan shall be consistent with the *Voluntary Remediation Program Community Relations Plan* non-rule policy document, (WASTE-0049-NPD, 24 Ind. Reg. 2598 (2001)).

20. IDEM may request Applicant to submit additional or corrected information pursuant to IC § 13-25-5-9(b). The Applicant may comply with the request or withdraw the proposed plan from consideration.

21. The Remediation Work Plan shall be subject to review and evaluation by IDEM pursuant to IC § 13-25-5-9(a) for approximately sixty (60) days after receipt of the Remediation Work Plan. IDEM's failure to act on the Remediation Work Plan shall not constitute IDEM's acceptance of the Remediation Work Plan. Additionally, IDEM may request the applicant to supply additional information or corrected information pursuant to IC § 13-25-5-9(b). This time period shall not include the time required for public comment under IC § 13-25-5-11.

22. The Commissioner shall make a determination concerning the approval, modification and approval, or rejection of the Remediation Work Plan following the 30-day public comment period provided for in IC13-25-5-11.

23. If the Applicant desires to proceed with the implementation of the approved Remediation Work Plan, the Applicant must notify IDEM in writing not more than sixty (60) days after the Remediation Work Plan is approved. After providing such notice, the Applicant shall initiate the work detailed in the Remediation Work Plan according to the schedule as set forth in the Remediation Work Plan. Upon IDEM's receipt of notice that the Applicant intends to proceed, the fully approved Remediation Work Plan shall be deemed incorporated into and made an enforceable part of this Agreement.

VIII. ADDRESSES FOR ALL CORRESPONDENCE

24. Documents, including reports, approvals, notifications, disapprovals, and other correspondence, to be submitted under this Agreement, may be sent by U.S. First Class mail, hand delivery, overnight mail, or by courier service to the following addresses or to such addresses as the Applicant or IDEM may designate in writing.

Documents to be submitted to IDEM shall be sent to:

Ms. Erin Brittain, Project Manager
Voluntary Remediation Program
MC 66-30V IGCN 1101
Indianapolis, Indiana 46204-2251
(317) 233-2991

Documents to be submitted to the Applicant shall be sent to:

Mr. John Mundell
Mundell & Associates, Inc.
429 East Vermont Street, Suite 200
Indianapolis, IN 46202

IX. COMPLIANCE WITH APPLICABLE LAWS

25. All work undertaken by the Applicant 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, and Resource Conservation and Recovery Act regulations. In the event of a conflict in the application of federal, state, or local laws, ordinances, or regulations, the Applicant shall comply with the more/most stringent of such laws, ordinances, or regulations, unless provided otherwise in writing by IDEM.

26. As allowed by IC 13-25-4-26, a State or local permit may not be required for the part of a VRP cleanup that is conducted entirely at the site of the release or threatened release. If the Applicant wishes to utilize this permit waiver, Applicant shall identify in the Remediation Work Plan the specific permit(s) and applicable law(s) that the Applicant is seeking to be waived. Applicant agrees to satisfy all applicable requirements imposed upon any activity that would require a permit but for IC 13-25-4-26, unless otherwise authorized by IDEM in its discretion. If the Applicant undertakes an activity for which a permit is required without first obtaining a valid permit, the Applicant shall be subject to appropriate IDEM enforcement action notwithstanding IC 13-25-4-26, unless the Commissioner has approved a Remediation Work Plan that identifies the applicable permit requirements for that activity. Where it is determined that a permit is otherwise required under law, Applicant shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals. The Applicant shall be responsible for obtaining all necessary permits.

27. Nothing in IC 13-25-5 relieves Applicant of its obligations or responsibilities under the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.*, including, but not limited to, the duty to meet any permit conditions, financial responsibility, closure, post-closure or corrective action, regardless of whether the Remediation Work Plan addressed the contaminants or property at issue.

28. Nothing in this Agreement, the Certificate of Completion, or the Covenant Not To Sue shall be construed to relieve the Applicant of any natural resource damage liability arising from contaminants, even if addressed by the Remediation Work Plan, including under the following authorities: 42 U.S.C. § 9601 *et seq.* (CERCLA), 33 U.S.C. § 2701 *et seq.*, IC § 13-25-4-8, or any common law theories of public trust doctrine in Indiana. Applicant agrees that the period from the Effective Date of this Agreement until the Agreement is terminated or satisfied shall toll all statutes of limitations applicable to the contaminants addressed by the Remediation Work Plan.

29. A Certificate of Completion and Covenant Not To Sue issued under Section XXV (Termination and Satisfaction) shall not release Applicant from liability for claims for natural resources damages. Applicant may devise and carry out a plan for restoration, rehabilitation, replacement, or acquisition of equivalent natural resources or pay to the State the value of the natural resources, as determined by the Natural Resource Trustees. The plan may be developed and implemented as part of the Remediation Work Plan. If Applicant wishes to address natural resource damages in the Remediation Work Plan, Applicant shall so indicate in the notice to the State and Federal Natural Resources Trustees per Section X (Interagency Coordination).

30. After receiving notice of Applicant's desire to address natural resource damages, the Natural Resources Trustees may perform a pre-assessment screen for injury to, destruction of, or loss of natural resources. The Applicant expressly agrees to reimburse IDEM for any and all costs incurred by either IDEM or the Indiana Department of Natural Resources in performing the pre-assessment screen. The Applicant will perform the assessment of damages based on the pre-assessment screen. This Agreement and the Covenant Not To Sue issued hereunder do not alter the liability of Applicant or any other person to the federal government for claims of natural resource damages under any federal law.

X. INTERAGENCY COORDINATION

31. The following agencies may have an interest in the Remediation Work Plan because of concurrent jurisdiction over the Site:

1. Indiana Department of Natural Resources
   Executive Office Room 256
   402 W. Washington, Indianapolis, IN 46204
   Attn: John M. Davis
   Phone: (317) 232-4025
   Fax: (317) 233-4579

2. Indiana State Department of Health
   Epidemiology Resource Center
   3-D
   2 N. Meridian St.
   Indianapolis, IN 46204

3. Department of Homeland Security
Fire Code Enforcement, Fire & Building Safety
Rm E-241
402 W. Washington St.
Indianapolis, IN 46204
Phone: (317) 232-2222
Fax: (317) 233-0307

4. U.S. Department of Interior
Fish & Wildlife Service
Bloomington Ecological Services Field Office
620 South Walker Street
Bloomington, Indiana 47403-2102
Telephone: (812) 334-4261
Fax: (812) 334-4273

32. The Applicant shall provide notice to these agencies of the submission of the Remediation Work Plan by sending them a copy of the Remediation Work Plan Executive Summary, a Site map, and the names of the Project Managers for IDEM and Applicant. Any of the above named agencies that wish to review the Remediation Work Plan shall be given an opportunity by IDEM to comment during the time that IDEM is reviewing the Remediation Work Plan. IDEM shall consider any comments from state agencies that are received at least thirty (30) days prior to the deadline established in this Agreement for approval or rejection of the Remediation Work Plan. If Applicant wishes to address natural resource damages in the Remediation Work Plan, Applicant shall so notify the State and Federal Natural Resources Trustees within thirty (30) days of the Effective Date of this Agreement.

XI. DESIGNATED PROJECT MANAGER

33. On or before the Effective Date of this Agreement, IDEM and the Applicant shall each designate a Project Manager. Each Project Manager shall be responsible for overseeing the implementation of this Agreement. The IDEM Project Manager will be the designated IDEM representative at the Site. To the maximum extent possible, communications between the Applicant and IDEM and all documents (including reports, approvals, and other correspondence) concerning the activities performed pursuant to 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, which Party shall notify the other Party of the change in writing and in a timely fashion.

34. The IDEM Project Manager shall have the authority to halt, conduct, or direct any work required by this Agreement and/or any response actions or portions thereof if Site conditions present an imminent and substantial threat to human health or the environment. In the event that the IDEM Project Manager halts work pursuant to this paragraph, the schedule of work described in the Remediation Work Plan and this Agreement shall be modified accordingly, or IDEM may withdraw its approval of the Remediation Work Plan pursuant to Section XVIII (Reservation of Rights).

35. The absence of the Applicant's or IDEM's Project Manager from the Site shall not be cause for the stoppage of work. The Applicant's Project Manager or his or her supervisor shall reasonably be available by telephone while work is being performed at the Site. The Applicant's Project Manager shall designate a person to be in charge who will be available at the Site when work is being performed at the Site.

XII. QUALITY ASSURANCE

36. The Applicant shall use quality assurance, quality control, and chain of custody procedures in accordance with the Quality Assurance Project Plan approved for use by IDEM throughout any sample collection and analysis activities under this Agreement, unless IDEM agrees otherwise.

37. Applicant shall provide the IDEM Project Manager with reasonable advance notice of all sampling and analysis as detailed in the Investigation or Remediation Work Plans. IDEM requires the presence of an IDEM representative during any sampling that the Applicant uses as confirmation sampling. To provide quality assurance and maintain quality control, the Applicant shall do each of the following.

(a) Applicant shall allow IDEM personnel and/or IDEM authorized representatives reasonable access to laboratories and personnel utilized by the Applicant for analyses.

(b) Applicant shall ensure that all sampling and analyses are performed according to U.S. EPA methods, the approved Quality Assurance Project Plan, or other methods deemed satisfactory by IDEM.

(c) Applicant shall ensure that any laboratories used by the Applicant for analyses participate in a documented Quality Assurance/Quality Control program that complies with U.S. EPA guidance documents. As part of such a program, and upon request by IDEM, such laboratories shall perform analyses of samples provided by IDEM to demonstrate the quality of analytical data for each such laboratory.

(d) Applicant shall perform confirmatory sampling for all contaminants and all media for which a Certificate of Completion and Covenant Not To Sue are sought. Applicant shall specify in the Remediation Work Plan the means of taking confirmatory samples and notify IDEM personnel a minimum of fourteen (14) days prior to taking confirmatory samples.

38. IDEM reserves the right to reject any data not gathered consistent with the requirements of this section and Section XIII (Sampling and Data/Document Availability) and to require that the Applicant utilize a different laboratory.

XIII. SAMPLING AND DATA/DOCUMENT AVAILABILITY

39. The Applicant shall, upon request, make the results of all sampling, including raw data, and/or tests or other data generated by the Applicant, or on the Applicant's behalf, available to

IDEM. IDEM will make available to the Applicant the quality assured results of sampling and/or tests or other data similarly generated by IDEM.

40. At the request of IDEM, the Applicant shall provide to IDEM (and/or its authorized representative) splits or duplicates of any samples collected by the Applicant pursuant to the implementation of this Agreement. At the request of the Applicant, IDEM (or its authorized representative) shall provide split or duplicate samples to the Applicant of any samples collected by IDEM and/or its authorized representative pursuant to the implementation of this Agreement. Each Party shall notify the other in advance of any sample collection activity.

XIV. ACCESS

41. 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 Applicant shall obtain access agreements from the present owners. Such agreements shall provide access for IDEM and authorized representatives of IDEM, as specified below. In the event that access to the Site is not obtained, the Applicant shall so notify IDEM, which may at its discretion assist the Applicant in gaining access. IDEM may modify or terminate this Agreement and Applicant's participation in the VRP should the Applicant's inability to gain access (or subsequent loss of access) to the Site or other areas materially affect the Applicant's ability to perform the work required herein.

42. The Applicant shall provide authorized representatives of IDEM access to the Site and 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 and shall include, but not be limited to: inspecting records, operating logs, and contracts related to the Site; reviewing the progress of the Applicant in carrying out the terms of this Agreement; conducting such tests, inspections, and sampling as IDEM may deem necessary; using a camera, sound recording, or other documentary equipment for field activities; and, verifying the data submitted to IDEM by the Applicant hereunder. The Applicant shall permit IDEM'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 Applicant exercises control. All persons with access to the Site pursuant to this Agreement shall comply with the approved Health and Safety Plan and established health and safety protocols.

43. Nothing herein shall be construed as restricting the inspection or access authority of IDEM under any law or regulation. Furthermore, nothing herein shall be construed as restricting the authority of IDEM to abate any pollution or contamination at the Site.

XV. RECORD PRESERVATION

44. The Applicant agrees to preserve, during the pendency of this Agreement and for a minimum of six (6) years after its termination, all records and documents in the Applicant's possession or in the possession of its employees, agents, accountants, contractors, which relate in any way to the subject matters covered by this Agreement. Upon request by IDEM, the Applicant shall make available to IDEM such records or copies of any such records. After this six (6) year period, the Applicant shall notify IDEM in writing thirty (30) days prior to the destruction of any such

documents. At that time, if IDEM requests that some or all documents be preserved for a longer period of time, the Applicant shall provide IDEM with the documents that IDEM wishes to preserve.

45. Applicant may assert a confidentiality claim with respect to any or all of the information requested or submitted pursuant to this Agreement, pursuant to applicable laws and rules including IC 13-14-11, IC 5-14-3, and 329 IAC 6.1-3. Applicant shall adequately substantiate any assertion of confidentiality when the assertion is made. Information determined to be confidential by IDEM shall be disclosed only to the extent permitted by law. If no such confidentiality claim accompanies the information when it is submitted to IDEM, it may be made available to the public by IDEM without further notice to the Applicant. Applicant agrees not to assert any confidentiality claim with regard to any physical or analytical data.

XVI. DISPUTE RESOLUTION

46. This Section (Dispute Resolution) shall apply to any dispute arising under any section of this Agreement, unless specifically excepted.

47. The Parties shall use their best efforts, in good faith, to resolve all disputes or differences of opinion informally. If, however, disputes arise concerning this Agreement which the Parties are unable to resolve informally, the Applicant may present written notice of such dispute to IDEM and set forth specific points of dispute and the position of the Applicant. This written notice shall be submitted no later than five (5) business days after the Applicant discovers the Project Managers are unable to resolve the dispute. The Applicant's Project Manager will notify IDEM's Project Manager immediately by phone or other appropriate method of communication, prior to written notice, when s/he believes the Parties are unable to resolve a dispute.

48. Within ten (10) business days of receipt of such a written notice, IDEM shall provide a written response to the Applicant setting forth its position and the basis therefor. During the five (5) business days following the receipt of the response, the Parties shall attempt to negotiate in good faith a resolution of their differences.

49. Following the expiration of the time periods described in the immediately preceding paragraph, if IDEM concurs with the position of the Applicant, the Applicant shall be notified in writing. This Agreement and the Remediation Work Plan shall be modified to include any necessary extensions of time or variances of work. If IDEM does not concur with the position of the Applicant, IDEM, through the Commissioner, shall make a determination regarding the dispute, based upon and consistent with the terms of this Agreement, and shall provide written determination of such resolution to the Applicant. In the event that such determination is not acceptable to either Party, either Party may submit the dispute to an impartial third party for mediation in the following manner:

(a) The Parties shall select a mediator from the Indiana Supreme Court's approved list of mediators as established by the Indiana Rules of Alternative Dispute Resolution (ADR Rules) within five (5) business days of Applicant's receipt of the Commissioner's determination. In the event such a list does not exist or does not contain mediators that the Parties agree are qualified to mediate environmental disputes, the Parties shall use a mutually acceptable list and select a mediator within five (5) business days of compilation of such

other mutually acceptable list. In addition to the qualifications required by the ADR Rules, the mediator shall have experience in environmental issues.

(b) The dispute shall be initially submitted to the mediator via a written request for dispute resolution through mediation; the written request shall be issued within ten (10) business days after notification of the Parties of IDEM's final determination of the dispute, as provided by Paragraph 49 of this Section (Dispute Resolution). The request for assistance shall include the written determination of the Commissioner issued pursuant to Paragraph 49 and the documents specified in Paragraphs 47 and 48 of this Section (Dispute Resolution). A copy of the written request shall be delivered to the other Parties at the time the request is made.

(c) The Party which submitted the dispute to mediation may make a written submission in support of its position to the mediator within ten (10) business days of the mediator's selection, and any other Party may make a written response in support of its position within seven (7) business days thereafter. The mediator shall immediately thereafter contact all Parties and determine the course of the mediation, including scheduling any meetings deemed necessary.

(d) The mediation process shall be conducted in accordance with ADR Rules in any aspect not covered by this Agreement.

(e) The mediator and the Parties shall proceed with reasonable promptness to resolve the dispute.

(f) All communications, whether oral or written, between the mediator and the Parties, shall be kept confidential in accordance with ADR Rule 2.12, and to the extent allowed under Indiana law.

(g) The cost of the mediator shall be included in the administrative costs paid by the Applicant. IDEM's costs of mediation shall be included in the administrative costs paid by the Applicant, except to the extent that the mediator determines that IDEM acted unreasonably. The Applicant shall pay the Applicant's costs of mediation.

50. If either Party determines or the mediator declares that the dispute cannot be resolved through the mediation process, the Parties retain all rights under the Indiana Administrative Orders and Procedures Act, IC 4-21.5.

51. Until the dispute is resolved, any actions concerning that element of work in dispute shall be halted. The resolution of the dispute shall be incorporated into the Remediation Work Plan and made an enforceable part thereof. The time schedule for the work in dispute shall be extended by the amount of time needed for resolution. Elements of work and/or obligations not affected by the dispute shall be completed in accordance with the schedule contained in the Remediation Work Plan.

52. Elements of work and any actions required as a result of such dispute resolution shall immediately be incorporated, if necessary, into the appropriate plan or procedure, and into this Agreement. The Applicant shall proceed with all remaining work according to the modified plan or procedure.

XVII. FORCE MAJEURE

53. The Applicant shall cause all work or required reporting to be performed within the time limits set forth herein, unless performance is delayed by events that constitute a force majeure. For purposes of this Agreement, a force majeure is an event arising from circumstances beyond the reasonable control of the Applicant which delays performance of any obligations required by this Agreement. Increases of costs shall not be considered an event of force majeure.

54. The Applicant shall notify IDEM by calling IDEM's Project Manager within three (3) days and by writing no later than seven (7) days after any event that the Applicant contends is a force majeure. Such notification shall describe the anticipated length of the delay, the cause or causes of the delay, the measures taken or to be taken by the Applicant to minimize the delay, and the timetable by which these measures will be implemented. The Applicant shall have the burden of demonstrating that the event is a force majeure. The Commissioner shall make the decision of whether an event is a force majeure. This decision shall be promptly communicated to Applicant.

55. If a delay is attributable to a force majeure as determined in this section, the time period for performance under this Agreement shall be extended by IDEM, in writing, by the amount of time that is attributable to the event constituting the force majeure.

XVIII. RESERVATION OF RIGHTS

56. IDEM and Applicant reserve all rights and defenses they may have pursuant to any available legal authority unless expressly waived herein.

57. Nothing herein is intended to release, discharge, or in any way affect any claims, causes of action, or demands, in law or in equity, that 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 in this Agreement.

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

59. Pursuant to 42 U.S.C. § 9607(a)(4)(A), IC 13-25-4-23 and IC 13-25-5-18, the Parties agree that this Agreement constitutes an administrative settlement for purposes of 42 U.S.C. § 9613(f)(2), under which the Applicant, upon payment of all administrative costs due under the Agreement and the issuance of a Covenant Not to Sue, will have resolved liability it may have, to the extent provided in the Covenant Not to Sue, to the State. The Parties also agree that this Agreement constitutes an administrative settlement for purposes of 42 U.S.C. § 9613(f)(3)(B), under which the Applicant has resolved the liability it may have to the State to the extent provided in the Covenant Not to Sue.

60. IDEM reserves the right to bring an action, including an administrative action, against Applicant for any violations of statutes or regulations except for the specific violations or releases that are being remediated in the Remediation Work Plan.

61. Pursuant to IC 13-25-5, IDEM may withdraw its approval of the Remediation Work Plan at any time during the implementation of the Remediation Work Plan if:

(a) IDEM determines that the Applicant has failed to substantially comply with the terms and conditions of this Agreement or the Remediation Work Plan;

(b) the Applicant declines to implement the Remediation Work Plan after being notified of its approval by IDEM; or

(c) IDEM determines that a hazardous substance or petroleum has become an imminent or substantial threat to human health or the environment.

Upon withdrawal of its approval, this Agreement shall be terminated and IDEM reserves the right to bring any action to enforce any statute or regulation under Title 13 of the Indiana Code, including an action regarding the violations or releases that were the subject of this Agreement.

62. IDEM acknowledges that, pursuant to IC § 13-25-5-20(b), Applicant, upon receipt of the Certificate of Completion, is not liable for claims for contribution concerning matters addressed in the Remediation Work Plan or the Certificate of Completion.

XIX. ADMINISTRATIVE COSTS

63. Applicant agrees to reimburse IDEM for all of its Administrative Costs associated with implementation of this Agreement. Administrative Costs may include, but are not limited to, costs for compliance monitoring (such as the collection and analysis of split or duplicate samples, inspection of Applicant's activities, and Site visits), discussions regarding disputes that may arise as a result of this Agreement, review and approval or disapproval of reports, and the costs of dispute resolution as provided in Section XVI (Dispute Resolution). Attachment B contains an itemized list of estimated Administrative Costs that IDEM expects to incur under this Agreement. This estimate does not bind IDEM to a maximum cost that IDEM is entitled to bill the Applicant under this Agreement.

64. IDEM shall routinely send an accounting of IDEM's Administrative Costs to Applicant. The accounting shall itemize all Administrative Costs incurred by IDEM. Applicant shall pay these Administrative Costs within thirty (30) days of receipt of the accounting. Interest shall accrue at a rate of one half percent (1/2 %) per month of delinquency. Applicant understands that IDEM may incur Administrative Costs after this Agreement is satisfied. IDEM may issue the Certificate of Completion and Covenant Not To Sue before IDEM has accounted for all Administrative Costs. Therefore, Applicant further understands that the Applicant may receive bills after the Certificate of Completion and the Covenant Not To Sue have been issued.

65. Checks shall be made payable to the Voluntary Remediation Fund and be mailed, along with a transmittal letter stating the Site name, number, and address, to the Indiana Department of Environmental Management; Attention: Cashier; 100 North Senate Avenue, Mail Code 50-10C; Indianapolis, Indiana 46204. In addition, a copy of the check and transmittal letter shall be mailed to IDEM Project Manager.

66. Administrative Costs include all costs of IDEM's oversight of this Agreement and the work contemplated herein. Administrative Costs for salary, benefits and indirect costs of IDEM personnel shall be calculated at a rate of $65 (sixty-five dollars) per hour or fractional rate thereof. As authorized by IC § 13-25-5-8(a), IDEM considers this rate to be reasonable and necessary for the effective and efficient implementation of the Voluntary Remediation Program and to ensure that IDEM meets its obligations and all other expenses. Administrative Costs shall also include the actual costs of IDEM's expenses including, but not limited to, copying of documents, travel, laboratory or sampling costs, and retention of a qualified person to oversee the Applicant's work under this Agreement and review of the Remediation Work Plan and other documentation. IDEM will not issue the Certificate of Completion or the Covenant Not To Sue before the payment of any Administrative Costs that are due and payable. Costs incurred prior to and after satisfaction of this Agreement must be paid regardless of the issuance of the Certificate of Completion and the Covenant Not To Sue.

67. In the event that this Agreement is terminated for any reason, Applicant agrees to reimburse IDEM for all of its Administrative Costs incurred to the time of termination. IDEM agrees to reimburse Applicant any unused portion of the application fee in accordance with IC § 13-25-5-8(b)(2).

XX. COMMUNITY RELATIONS

68. In addition to performing the requirements specified in the Community Relations Plan in the Applicant's Remediation Work Plan, the Applicant shall cooperate with IDEM in providing information about the Remediation Work Plan to the public. IDEM will give the Applicant reasonable advance notice of and may require the Applicant's or its agent's attendance at any such public meetings it may hold or sponsor at times and locations which are agreed upon by IDEM and the Applicant.

69. Before the Commissioner may approve or disapprove the Remediation Work Plan, the Commissioner shall provide thirty (30) days for public comment pursuant to IC § 13-25-5-11.

70. IDEM shall maintain a public information file containing the Remediation Work Plan during the thirty (30) day Public Comment period at a public repository near the Site. Applicant shall provide the location of a suitable public repository in accordance with applicable guidance.

XXI. NOTICE OF BANKRUPTCY OR DEATH

71. As soon as Applicant has knowledge of its intention to file bankruptcy or no later than seven (7) days after the actual filing of a voluntary or involuntary bankruptcy petition, Applicant shall notify IDEM of the filing of a bankruptcy petition. If an Applicant dies, as soon as a personal representative of a deceased Applicant's estate becomes aware of this VRP project, the personal representative shall notify IDEM of the probate of the estate. IDEM shall be notified as a creditor of the bankruptcy and/or estate. IDEM's claim may be a contingent claim, in whole or in part, as there may be oversight costs due after the closing of the bankruptcy and/or probate estate.

XXII. INDEMNIFICATION

72. The Applicant agrees to indemnify and hold the State of Indiana, its agencies, departments, agents, and employees, harmless from any and all claims or causes of action arising from, or on account of, acts or omissions of the Applicant, its officers, employees, receivers, trustees, agents, or assigns, in carrying out the activities pursuant to this Agreement.

XXIII. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

73. The Effective Date of this Agreement shall be the date on which the Commissioner signs this Agreement.

74. This Agreement may be amended by mutual agreement of IDEM and the Applicant. Amendments shall be in writing and shall be effective when signed by the Commissioner.

XXIV. EXTENSIONS OF TIME PERIODS

75. Any written response shall be deemed timely performed if hand delivered or postmarked by the last day of any time period prescribed herein. Whenever a Party has the right or an obligation to do some act or make some response within a prescribed period after the service of a notice by mail, three (3) days shall be added to the prescribed period.

76. Whenever any Party is called upon to respond or otherwise act in a certain number of days, and the final day occurs on a Saturday, Sunday or legal holiday (whether state or national), such time limitation shall automatically extend to the next business day after such Saturday, Sunday or legal holiday.

77. Any time periods specified in this Agreement may be extended only by agreement of the Parties.

XXV. TERMINATION AND SATISFACTION

78. The provisions of this Agreement shall be satisfied when IDEM issues a Certificate of Completion to the Applicant. The Parties understand that IDEM will issue the Certificate of Completion to the Applicant only. Termination or satisfaction of this Agreement does not end the obligations found in Section XV (Record Preservation) and Section XIX (Administrative Costs). The Applicant shall continue to be responsible under Section XV (Record Preservation) and Section XIX (Administrative Costs) for the performance of the duties specified therein regardless of the termination or satisfaction of this Agreement.

79. In the event that Applicant fails to satisfactorily respond to IDEM's December 20, 2006, letter and to take appropriate and timely response action, IDEM reserves the right to terminate this Agreement and Applicant's participation in the VRP. In the event that IDEM terminates Applicant's participation in the VRP for any reason, all protection provided under IC § 13-25-5-18(e) is extinguished and IDEM may proceed under IC 13-25-4. In the event this Agreement is terminated, the Applicant shall remain responsible to IDEM under Section XIX (Administrative Costs) for costs incurred.

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

81. After IDEM issues the Certificate of Completion, the Governor's Office shall provide Applicant with a Covenant Not To Sue pursuant to IC § 13-25-5-18. The Covenant Not To Sue shall contain a listing of the specific work and contaminants covered. The Parties understand that the Governor's Office will issue the Covenant Not To Sue to the Applicant only.

XXVI. PRECEDENCE OF AGREEMENT

82. In the event that conflict arises among the terms and conditions of this Agreement or the approved Remediation Work Plan, this Agreement shall govern and the terms and conditions hereunder shall determine the Parties' rights and responsibilities.

IN WITNESS WHEREOF, the following hereby execute this Voluntary Remediation Agreement:

For the Applicant:

AIMCO Michigan Meadows Holdings LLC
Applicant

_____
Attorney for the Applicant (signature optional, please type)

By: _____

By: _____

Title: Vice President, Env., Health & Safety

Title: _____

Date: April 5, 2007

Date: _____

For the Indiana Department of Environmental Management:

TECHNICAL RECOMMENDATION:

By: _____
Richard Harris, Section Chief
Voluntary Remediation Program

Date: 4/12/07

APPROVED FOR LEGALITY AND FORM:

By: _____
Attorney
Office of Legal Counsel

Date: 4/17/07

Approved and adopted by the Indiana Department of Environmental Management

this 20th day of April, 2007.

_____
Peggy Dorsey
Deputy Assistant Commissioner
Office of Land Quality

ATTACHMENT B
NON-BINDING COST ESTIMATE
IDEM SITE #: 6061202

Oversight of voluntary remediation at the Michigan Plaza site in Indianapolis, Indiana will be required. The following tasks and estimated costs are anticipated:

Review of Phase 2 Report & Revisions	$ 3,120.00
Review of Remediation Work Plan & Revisions	$ 5,200.00
Implementation Oversight	$ 6,630.00
Review of Remediation Completion Report & Revisions	$ 2,600.00

Please note that IDEM split sampling costs are NOT included in these estimates

Total: $ 17,550.00

06/2005