



August 1, 2024

Building 6 Acquisition, LLC and
Canal Place E, LLC Dba
Canal Place, LLC – c/o Mark Milakovich
14180 Dallas Parkway, Suite 730
Dallas, TX 75254

**Re: Building 6 Acquisition, LLC and
Canal Place E, LLC Dba Canal Place, LLC
Director's Final Findings and Orders (DFFO)
RCRA C - Hazardous Waste
Summit County
OHD987041811**

Subject: Final Findings and Orders of the Director

Dear Sir or Madam:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for Building 6 Acquisition, LLC and Canal Place E, LLC Dba Canal Place, LLC.

Enclosed is the invoice for the total penalty amount of \$ 10,000.00 required by the orders. The penalty payment(s) shall be made by official check(s) made payable to "Treasurer, State of Ohio."

If you have any questions, please contact Sarah Miles at (614) 644-3037.

Sincerely,

Mitchell Mathews

Mitchell Mathews, Environmental Manager
Division of Environmental Response and Revitalization

Enclosure

ec: Zak Kabelen, DERR, CO
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**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

**Building 6 Acquisition, LLC and
Canal Place E, LLC
Dba Canal Place, LLC
540 S. Main Street Building 6
Akron, Ohio 44311**

**Director's Final
Findings and Orders**

Respondent

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Building 6 Acquisition, LLC and Canal Place E, LLC dba Canal Place, LLC (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 3734.13 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3734. and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent is a "person" as defined in ORC § 3734.01(G) and OAC rule 3745-50-10(P).

2. Respondent is the owner and operator of the real property located at 540 South Main Street, Building 6, Akron, Summit County, Ohio 44311 (Facility) and has been assigned U.S. EPA Identification Number OHD987041811. The Facility was previously leased to and occupied by a manufacturer of rubber products. There is one building at the Facility that is surrounded by a paved parking lot.
3. At the Facility, a former operator abandoned "hazardous waste" as that term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(H) and 3745-51-03. The hazardous waste abandoned at the Facility includes, but is not limited to, paint related waste (D001 – ignitability, D035 – methyl ethyl ketone, and F003 – spent non-halogenated solvents) as defined in OAC rules 3745-51-21, 3745-51-24 and 3745-51-30, bulk acid waste (D002 – corrosivity) as defined in OAC rule 3745-51-22, and dibutyl phthalate (U069 – dibutyl phthalate) as defined in OAC rule 3745-51-33.
4. On October 28, 2022, Respondent took ownership of the Facility, including the abandoned hazardous waste stored at the Facility.
5. On December 9, 2022, Ohio EPA received an anonymous complaint submitted to the Summit County Public Health department that alleged 55-gallon drums of oil were leaking in the parking lot of the Facility.
6. On January 3, 2023, City of Akron storm water inspectors conducted a complaint investigation at the Facility in response to the complaint referenced in Finding No. 5. of these Orders. The inspector informed Ohio EPA that it had appeared carbon black leaked from one container onto the ground outside of the building but had not entered any waters of the state. Oil-dri absorbent was placed on the ground outside of the building in the location of the release.
7. On January 4, 2023, Ohio EPA contacted Respondent and requested that the oil-dri absorbent be cleaned up and all containers that were stored outside be moved into the building.
8. On January 5, 2023, Ohio EPA conducted a focused compliance inspection at the Facility in response to the complaint referenced in Finding No. 5. of these Orders. Respondent informed Ohio EPA that waste containers had been abandoned by the previous owner and in preparation for use by a future potential tenant,

Respondent had temporarily moved all containers from the first floor to outside of the south entrance of the building to accommodate cleaning and painting. During the inspection, Ohio EPA inspected the area outside the southern entrance of the building where the containers had previously been stored and where the leak of carbon black had occurred. Respondent had cleaned up the carbon black release and was in the process of moving all containers inside the southern entrance of the building. Ohio EPA observed approximately 85, 55-gallon containers, 110, 5-gallon containers, three 250-gallon poly totes, and four 300-gallon containers located inside the southern entrance of the building. An additional 18, 55-gallon containers, 42, 5-gallon containers, two super sacks, and 45 bags of waste were observed on the second floor of the building at the Facility. Oil absorbent had been applied throughout the inside of the building and the area outside of the building at the southern entrance as a preventative measure. A relatively small release was observed inside the southern entrance of the building from a 250-gallon tote onto the concrete floor at which time absorbents were applied to the area.

9. Based upon the inspection referenced in Finding No. 8. of these Orders, Ohio EPA determined that Respondent failed to determine if the contents of the containers of wastes observed at the Facility were hazardous wastes, in violation of OAC rule 3745-52-11.
10. On January 6, 2023, Respondent provided Ohio EPA documentation including a site verification form, a photographic log of drums that had been moved inside the building from the south entrance parking lot, and an initial inventory of containers being stored at the Facility.
11. By letter dated January 12, 2023, Ohio EPA notified Respondent of the violation referenced in Finding No. 9. of these Orders.
12. On January 24, 2023, a contractor hired by Respondent provided a response to the Notice of Violation (NOV) letter referenced in Finding No. 11. of these Orders. In the response, the contractor informed Ohio EPA that the containers had been sorted, and some contents had been identified through labeling. All containers were removed from the second floor of the building and placed with the other containers near the southern entrance inside of the building. Samples were collected from the oil containers and any unidentified containers for analysis.

13. On February 21, 2023, Respondent's contractor informed Ohio EPA via electronic mail that all laboratory analyses for oil and unlabeled containers had been completed, and all oil containers were transported to a used oil recycling facility. Additionally, Respondent's contractor informed Ohio EPA that they were currently coordinating the proper transportation and disposal of all unlabeled wastes to authorized facilities.
14. On March 1, 2023, Respondent's contractor informed Ohio EPA via telephone that all waste had been evaluated and all oil and solid waste had been transported to appropriate facilities. Approximately 28 containers of hazardous waste were remaining at the Facility. Ohio EPA requested that Respondent label each container of hazardous waste with the words "hazardous waste" and include the accumulation date, label each container with the hazards associated with the waste and conduct inspections of the hazardous waste containers on a weekly basis. Ohio EPA additionally requested a timeline for when the containers of hazardous waste would be transported to an authorized facility and that photos of each hazardous waste container be provided. Respondent's contractor expected all hazardous waste to be transported to an authorized facility within 60 days.
15. On March 10, 2023, Respondent's contractor provided Ohio EPA with the requested photographic evidence of the labeled hazardous waste containers referenced in Finding No. 14. of these Orders. Additionally, Respondent's contractor informed Ohio EPA that weekly inspections were being conducted.
16. On March 13, 2023, Ohio EPA requested via telephone and electronic mail for the hazards of the contents to be included on the hazardous waste containers and to provide photographs, an inventory of the remaining hazardous waste containers including waste codes, quantities, and types of wastes in each container, a summary of sample results showing waste characterizations, and an update for when the hazardous waste would be transported off-site. Respondent's contractor informed Ohio EPA that some non-hazardous waste and oil remained onsite and a quote for waste removal was being pursued.
17. On March 21, 2023, Respondent's contractor provided Ohio EPA photographs of several hazardous waste containers including labels, a copy of the first weekly inspection of the hazardous waste containers, and the container inventory including waste characterizations. Analytical results were provided for the

unlabeled containers that had been sampled. Respondent made hazardous waste determinations on the remaining containers and provided information to Ohio EPA. Ohio EPA was informed that the expected date for hazardous waste removal from the Facility would be within 30 days.

18. On March 24, 2023, based upon the information provided by Respondent's contractor and referenced in Finding No. 17. of these Orders, Ohio EPA requested that the hazards be included on the labels of each drum and provide photographic documentation to Ohio EPA.
19. On March 27, 2023, Ohio EPA requested additional information pertaining to the documentation provided by Respondent's contractor referenced in Finding No. 17. of these Orders. Ohio EPA requested information explaining how waste determinations were made where discrepancies in the inventory had been observed. Additionally, on March 27, 2023, Respondent's contractor provided Ohio EPA with the requested photographic evidence of the labeled hazardous waste containers referenced in Finding No. 17. of these Orders.
20. On April 4, 2023, Ohio EPA conducted a follow-up inspection at the Facility. During the inspection, Ohio EPA observed several containers which contained hazardous waste that were not included on the March 21, 2023, inventory provided to Ohio EPA. One 5-gallon carboy (container), and several 55-gallon drums containing dried paint and liquids were observed by Ohio EPA outside the building at the Facility along the west wall that had not previously been inventoried or characterized to determine if their contents were a hazardous waste. Ohio EPA requested that these containers be moved inside the building and characterized to determine if the wastes were hazardous waste. Ohio EPA found the concrete pad along the west wall to be of good integrity and no evidence of release present. Furthermore, the containers found in this area were in good condition and did not show any evidence of releases. Additionally, Respondent's contractor informed Ohio EPA that the leak described in the complaint referenced in Finding No. 5. of these Orders was oil not carbon black as referenced in Finding No. 6. of these Orders.
21. As a result of the ownership of the Facility, the waste inventory referenced in Finding No. 17. of these Orders and the inspection referenced in Finding No. 20. of these Orders Ohio EPA determined that Respondent, *inter alia*:

- a. Established and operated the Facility as a hazardous waste storage facility without a hazardous waste installation and operation permit, in violation of ORC § 3734.02(E) and (F) and OAC rules 3745-50-41(A) and 3745-50-45(A). Specifically, based on analytical results and the incomplete container inventory provided on March 21, 2023, and referenced in Finding No. 17. of these Orders, hazardous waste had been stored at the Facility since at least October 28, 2022, when Respondent acquired the property. During the April 4, 2023, Ohio EPA observed all hazardous waste remained at the Facility and had not been transported to an authorized facility. The areas where hazardous waste containers were unlawfully stored inside and outside the building at the southern entrance and inside the building on the second floor are considered hazardous waste management units.
 - b. Failed to evaluate one 5-gallon carboy (container), and several 55-gallon drums containing dried paint and liquids located outside the building at the Facility, in violation of OAC rule 3745-52-11.
22. By letter dated April 18, 2023, Ohio EPA notified Respondent of the violations referenced in Finding No. 21. of these Orders.
23. On May 3, 2023, Ohio EPA requested a response from Respondent to the NOV letter referenced in Finding No. 22. of these Orders.
24. On May 5, 2023, Respondent's contractor informed Ohio EPA via telephone call that the NOV had not been received by Respondent and requested that the NOV be sent again. Respondent's contractor provided via electronic mail analytical results for the containers of waste observed outside of the building at the Facility along the west wall and referenced in Finding No. 20. of these Orders. Based upon information provided, the waste referenced in Finding No. 20. of these Orders was determined to be a listed hazardous waste F003 (listed due to ignitability), F005 (listed due to toxicity), U055 (cumene), and U165 (naphthalene), as described in OAC rules 3745-51-31 and 3745-51-33. Because of this, the area where the hazardous waste containers were unlawfully stored outside the building at the Facility along the west wall and referenced in Finding No 20. of these Orders is considered hazardous waste management unit.
25. On May 8, 2023, Ohio EPA requested that Respondent provide a response to the

April 18, 2023, NOV referenced in Finding No. 22. of these Orders. The request included steps taken since the letter was received, how each violation would be resolved, and waste profile sheets referencing an updated inventory.

26. On May 24, 2023, Respondent's contractor provided Ohio EPA with a response to the April 18, 2023, NOV referenced in Finding No. 22. of these Orders. The response detailed all actions taken since January 24, 2023, to resolve the violations referenced in Findings Nos. 9. and 21. of these Orders. Ohio EPA was informed that on May 23, 2023, Respondent was made aware that the authorized facility contracted to dispose of the hazardous waste has limited capability to accept new waste and as such, had been unable to establish waste profiles for disposal. Included with the response was an updated waste inventory which appeared to include all waste containers.
27. On June 20, 2023, Respondent's contractor informed Ohio EPA that shipments of hazardous waste to an authorized facility would begin on July 11, 2023. Ohio EPA requested waste profiles be provided in advance of the shipment.
28. On June 27, 2023, Ohio EPA requested that Respondent provide waste evaluation documentation for the oil absorbents used to clean up the releases referenced in Findings Nos. 6. and 8. of these Orders.
29. On July 13, 2023, Respondent's contractor provided Ohio EPA with the draft waste profiles for hazardous waste being transported off-site for review and approval.
30. On July 21, 2023, Respondent's contractor provided Ohio EPA with a revised container inventory that included additional waste profiles not provided with the information referenced in Finding No. 29. of these Orders.
31. On August 2, 2023, Ohio EPA requested Respondent provide additional information regarding the waste profiles and container inventory referenced in Findings Nos. 29. and 30. of these Orders. Specifically, Ohio EPA requested that Respondent address numerous discrepancies concerning waste determinations, proper waste codes, matching of waste profiles and additional containers not present in previous container inventories provided to Ohio EPA.
32. On September 1, 2023, Respondent's contractor provided a response to Ohio

- EPA's information request referenced in Finding No. 31. of these Orders. In the response, comments were provided for each observed discrepancy referenced in Finding No. 31. of these Orders.
33. On September 28, 2023, Respondent's contractor provided Ohio EPA with revised waste profiles in response to Ohio EPA's information request referenced in Finding No. 31. of these Orders.
 34. Because of the information received by Ohio EPA and referenced in Findings Nos. 32., and 33. of these Orders, the violations referenced in Findings Nos. 9., and 21.b. of these Orders have been resolved.
 35. On November 16, 2023, Respondent's contractor provided Ohio EPA with the requested analysis of the oil absorbents referenced in Finding No. 28. of these Orders. The results indicated that the oil absorbents were not a hazardous waste.
 36. On February 19, 2024, Respondent's contractor provided Ohio EPA with hazardous waste manifests dated January 23, 2024, January 30, 2024, and February 16, 2024, demonstrating that the containers of hazardous waste that were unlawfully stored as referenced in Finding No. 21.a. of these Orders, the 5-gallon carboy (container) and several 55-gallon drums containing dried paint and liquids referenced in Finding No. 21.b. of these Orders were transported to an authorized facility.
 37. On March 6, 2024, during a walkthrough of the Facility with Respondent and Respondent's contractor, Ohio EPA observed a tote containing used oil located outside of the northwest side of the building. Several bags, boxes and containers were observed on the second floor that had not been previously identified during prior inspections of the Facility; this included three bags of silicon dioxide, a 5-gallon container of silicone, several containers of unknown samples and a box of antimony oxide. Ohio EPA discussed with Respondent and Respondent's contractor the closure obligations and what actions would need to occur to complete closure of the hazardous waste management unit described in Finding No. 21.a., of these Orders.
 38. On March 11, 2024, Ohio EPA requested Respondent's contractor provide waste evaluation documentation for the wastes observed during the March 6, 2024,

Facility walkthrough referenced in Finding No. 37. of these Orders.

39. On March 12, 2024, Respondent's contractor provided a response to Ohio EPA's information request referenced in Finding No. 38. of these Orders. In the response, Respondent's contractor provided Ohio EPA with an inventory of the wastes observed during the Facility walkthrough referenced in Finding No. 37. of these Orders including safety data sheets for the wastes. Respondent's contractor informed Ohio EPA that approximately 1 gallon of unknown solvent would be analyzed to determine if it were a hazardous waste.
40. On March 13, 2024, Ohio EPA informed Respondent's contractor that based upon the information provided and referenced in Finding No. 39. of these Orders, Ohio EPA determined that the box of antimony oxide exhibited a characteristic of a hazardous waste for toxicity due to arsenic (D004) and lead (D008) as described in OAC rule 3745-51-24.
41. On March 22, 2024, during a discussion between Ohio EPA and Respondent regarding these Orders, Respondent agreed to develop a plan which would address any contamination associated with the hazardous waste management units described in Findings No. 21.a. and 37. of these Orders, which include the first-floor south entrance, both inside and outside the building, and the second floor.
42. On April 26, 2024, Respondent provided Ohio EPA with an approved plan to address the hazardous waste management units described in these Orders, specifically the southern entrance area and the second floor, where hazardous waste was stored. This plan included the following activities: power-washing, triple rinsing after the use of a surfactant, and vacuuming all wash and rinse water for the areas inside and outside of the southern entrance; dry vacuuming the second floor.
43. Beginning on May 9, 2024, and concluding on May 16, 2024, Respondent implemented the plan described in Finding No. 42. of these Orders.
44. On June 28, 2024, the hazardous waste antimony oxide described in Finding No. 40. of these Orders waste transported to an authorized facility.

45. On July 16, 2024, Ohio EPA met with Respondent's contractor to complete a walkthrough of the Facility. During the walkthrough, Ohio EPA observed that all remaining hazardous waste had been transported to an authorized facility and all cleanup activities had been completed in accordance with the plan.
46. On July 26, 2024, Respondent provided a report of the cleanup activities at the Facility. This report documents Respondent conducted all the cleanup activities in the plan.
47. Based upon the submittal and implementation of the plan referenced in Findings Nos. 42. and 43. of these Orders, and the Facility walkthrough referenced in Finding No. 46. of these Orders, the Director has determined that Respondent met the closure performance standard pursuant to OAC rules 3745-55-11 through 3745-55-20 for the hazardous waste management units referenced in Finding Nos. 21.a. and 37. of these Orders, referred to the southern entrance area and the second floor. Furthermore, the Director has determined that no further action is required to meet the closure performance standard for the west wall area described in Finding No. 20. of these Orders for the reasons described in that Finding. Upon the effective date of this Order, no further action is required for the violation referenced in Finding No. 21.a. of these Orders and the violation is resolved.

V. ORDERS

Respondent shall achieve compliance with Chapter 3734. of the ORC and the regulations promulgated thereunder according to the following compliance schedule:

1. Within 30 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$10,000.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. and which will be deposited into the environmental protection remediation fund established pursuant to ORC § 3734.281. The official payment shall be submitted to Ohio EPA according to the instructions on the invoice. Notification of penalty payment shall be sent to the Hazardous Waste Program Compliance Assurance Manager, Ohio EPA, Division of Environmental Response and Revitalization, P.O. Box 1049,

Columbus, Ohio 43216-1049 or via electronic mail at
Mitchell.mathews@epa.ohio.gov.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official payment required by Section V. of these Orders.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, the operation of Respondent's Facility.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

All documents (except penalty payment checks) required to be submitted by Respondent pursuant to these Orders shall be addressed to Mitchell.Mathews@epa.ohio.gov.

XI. RESERVATION OF RIGHTS

Ohio EPA reserves its rights to exercise its lawful authority to require Respondent to perform corrective action at the Facility, at some time in the future, pursuant to ORC Chapter 3734. or any other applicable law. Respondent reserves its rights to raise any

administrative, legal or equitable claim or defense with respect to performing such corrective action. Ohio EPA and Respondent each reserve all other rights, privileges and causes of action, except as specifically waived in Section XII. of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Except for the right to seek corrective action at the Facility by Respondent, which right Ohio EPA does not waive, compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.


IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Anne M. Vogel
Director

IT IS SO AGREED:

Building 6 Acquisition, LLC and Canal Place E, LLC dba Canal Place, LLC



Signature

7/31/2024
Date

Mark S. Milakovich
Printed or Typed Name

Authorized Signatory
Title

Ohio EPA Invoice

Date Printed: August 1, 2024

Canal Place LLC
540 S Main St
Building 6
Akron, OH 44311

Receivable ID: 1645814
Please include this Receivable ID with all correspondence

Due Date:
Amount Due:
Effective Date: July 31, 2024

Revenue Description: DERR - Findings and Orders - Hazardous Waste Cleanup (FFOHW)

Program Name: RCRA C - Hazardous Waste

Reason: Ohio EPA issued Director's Final Findings and Orders (Orders) to Building 6

Acquisition, LLC and Canal Place E, LLC dba Canal Place, LLC (Canal Place) on July 31, 2024, for the facility located at 540 South Main Street, Building 6, Akron, Ohio. The Orders require Canal Place to pay a civil penalty of \$10,000.

How to Pay Fee Online:

1. Go to Ohio EPA's homepage: <https://epa.ohio.gov/>
2. In the "Featured Content" section locate the tile for the eBusiness Center and click.
3. On the right side of the screen click the blue "Launch" tile to enter the eBusiness Center.
4. To use the eBusiness center you will need an account. If you have an account, click the OH|ID icon in the light blue section on the left of the screen to log in.
5. If you do not have an account, the light blue section on the right of the screen has eBiz Help Wizard to assist with creating an account.
6. If you are paying your receivable with a credit card no PIN is required. If you plan to pay using a bank account and routing information you will need to request a PIN.

CUT OFF THIS STUB AND MAIL IT WITH YOUR CHECK. DO NOT MAIL TOP PORTION.

Pay to: Treasurer, State of Ohio. Please write the Revenue ID on your check. Please send this stub with your check. DO NOT SEND LETTERS OR OTHER FORMS.

Ohio EPA
PO Box 77005
Cleveland, OH 44194-7005

Due Date:	8/30/2024
Revenue ID:	1645814
Amount Due	\$10,000.00
Type Code:	FFOHW
Transaction ID:	

1645814 0001000000 FFOHW 000000000 6