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Doc#: 0613818070 Fee: \$52.50 Eugene "Gene" Moore

Cook County Recorder of Deeds

Date: 05/18/2006 01:01 PM Pg: 1 of 15

Highway Authority Agreement

Mail recorded document from

Cantt Theuerkauf

Rank 2650 WarrenvIT/e Rd. Suite 500 DOWNERS Grove, IL 60515

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Site PINs 14-31-105-001 and 14-31-105-002

TIERED APPROACH TO CORRECTIVE ACTION RIGHT-OF-WAY AGREEMENT

This Agreement is entered into this day of 200 pursuant to the Environmental Protection Act ("Act"), 35 IL Admin. Code Section 742/1020 and the Municipal Code of the City of Chicago Section 2-30-030 ("Code") by and among Mid America Bank ("Owner"/ "Operator") and the City of Chicago ("City"), as follows:

1. This Agreement is not binding on the City until it is executed by a duly authorized representative of the City, and prior to execution, this Agreement constitutes an offer by Owner/Operator. The duly authorized representatives of Owner and Operator have signed this Agreement, and this Agreement is binding upon them, their successors and assigns.

2. Owner/Operator stipulates:

- a. Owner/Operator is pursuing corrective action at a Site and in the right-of-way adjacent to the Site iccited at 2255 N. Western Avenue ("Site"). Site is legally described in Attachment A.
- b. The right-of-way adjacent to the Site, described or depicted in Attachment B, is subject to this Agreement and is rossibly impacted with contaminants from a release at the Site.
- Attached as Attachment C is a site map showing the known and probable area(s) of contaminant impacted soil and groundwater in the right-of-way where, at the time of this Agreement, contaminants exceed the Tier I residential remediation objectives under the Act and 35 III. Admin. Code Section 742. Also attached as Attachment D is a table showing the concentration of contaminants in soil and/or groundwater within the area described in Attachment B and showing the applicable Tier I soil and groundwater remediation objectives for residential property that are exceeded
- d. The corrective action is for a confirmed release of petroleum from an underground storage tank at the Site.
- e. The Illinois Emergency Management Agency has assigned incident number 20060142 to the Site.
- f. Owner/Operator has requested risk-based, site-specific soil and/or groundwater remediation objectives from the Illinois Environmental Protection Agency ("Illinois EPA") under the Act and 35 Ill. Admin. Code Section 742.

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- g. Under 35 III. Admin. Code 742.1020, the use of risk-based, site-specific remediation objectives in the right-of-way require this Agreement, in lieu of active remediation of the contaminant-impacted soil and groundwater.
- 3. The City stipulates that it holds the right-of-way described in Attachment B in trust for the public and has jurisdiction over the right-of-way.
- 4. The parties stipulate that:
 - This Agreement is intended to meet the requirements of the Illinois Pollution Control Board ("Board") regulations for such Agreements.
 - b. This Agreement shall be recorded by the Owner/Operator at its expense along with the Illinois EPA's "No Further Remediation" determination with the Cook County Recorder of Deeds. The Owner/Operator will similarly record any attachments, addendums, or alterations to this Agreement. Within thirty (30) days of such recording with the Cook County Recorder of Deeds, the Owner/Operator shall provide the City a copy of the Agreement that has been stamped by the Cook County Recorder of Deeds to indicate that it has been recorded with that office
 - c. This Agreement shall be null and void should the Illinois EPA not approve it, or should it not be recorded along with the Illinois EPA"s "No Further Remediation" determination.
- The City agrees that it will prohibit by ordinance the use of groundwater that is contaminated at levels above Tier I residential remediation objectives beneath its right-of-way identified in Attachment B as a potable or other domestic supply of water. This prohibition is ensured in Code Section II-8-390. The City further agrees that it will limit access to soil as described herein under the right-of-way described in Attachment B that is contaminated from the release at levels above the Fier I residential remediation objectives, as provided in Code Section IO-20-IOO et seq., and by requiring applicants for a public way work permit in the right-of-way described in Attachment B to consult the City and complete Form No. DOE.ROW.OI (or successor document), Attachment E, before obtaining a permit.
 - a. Where the pavement in the right-of-way is to be considered an engineered barrier, the Owner/Operator agrees to reimburse the City for maintenance activities requested by Owner/Operator. Except for ordinary maintenance performed on City roadways, the City does not agree to maintain the right-of-way, nor does it guarantee that the right-of-way will continue as a roadway or that the right-of-way will always be maintained as an engineered barrier.
 - b. This agreement does not in any way limit the City's authority to construct, reconstruct, repair or maintain and operate a right-of-way upon the property

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identified in Attachment B or to allow others to do the same. To that extent, the City reserves the right to identify, investigate, and remove contaminated soil and/or groundwater above Tier I residential remediation objectives from the right-of-way identified in Attachment B and to dispose of them as it deems appropriate in accordance with applicable environmental regulations so as to avoid causing a further release of the contaminants and to protect human health and the environment. The Owner/Operator shall reimburse the actual costs incurred by the City or others in so identifying, investigating, removing, storing, handling or disposing of contaminated soil and/or groundwater, and it shall not be a defense for Owner/Operator that those costs were not consistent with or required by Board or United States Environmental Protection Agency regulations, guidelines or policies. Prior to incurring any such costs, and unless trere is an urgent reason otherwise, the City shall first give Owner/Operator thirty days notice and an opportunity to remove or dispose of contaminated soil and/or groundwater, at Owner/Operator's cost, to the extent necessary for the City's work. Such removal and disposal shall be in accordance with all applicable laws and regulations. Failure to give this opportunity to Owner/Operator shall not be a defense to a claim for reimbursement or that the work should not nave been done. There is a rebuttable presumption that the contamination found in the right-of-way described in Attachment B arose from the release of containinants at the Site. Should Owner/Operator not reimburse the costs identified here, this Agreement shall be null and void in addition to such other remedies at may be available to the City by law.

- 6. Except for the negligent acts or omissions of the City, its agents and employees, the Owner/Operator agrees to indemnify and hold harmless the City, its agents and employees, and other entities using the right-of-way by a permit issued by the City, for all obligations asserted against or costs incurred by them associated with the release of contaminants of concern as described in Attachments C and D.
- 7. Violation of the terms of this Agreement by Owner/Operator, or its successor(s) in interest, may be grounds for voidance of this Agreement as a Highway Authority Agreement.
- 8. No violation of a permit by a third party shall constitute a breach of this Agreement by the City. Owner/Operator also agrees that its personnel, if any, at the Site will exercise due diligence in notifying those accessing contaminated soil in the right-of-way of their rights and responsibilities under this Agreement.
- 9. Should the City breach this Agreement, Owner/Operator's sole remedy is for an action for damages in the Circuit Court of Cook County. Any and all claims for damages against the City, its agents, contractors, employees or its successors in interest or others under permit from the City arising at any time are limited to an aggregate maximum of \$20,000.00. No other breach by the City, its successors in interest or others under permit, of a provision of this Agreement is actionable in either law or

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equity by Owner/Operator against the City or them and Owner/Operator hereby releases the City, its agents, contractors, employees and its successors in interest, or others under permit from the City for any cause of action it may have against them, other than as allowed in this paragraph, arising under this Agreement or environmental laws, regulations or common law governing the contaminated soil or groundwater in the right-of-way. Should the City convey, vacate or transfer jurisdiction of that right-of-way, Owner/Operator may pursue an action under this Agreement against the successors in interest, other than the City, or any of its departments, or State agency, in a Court of Law.

- 10. This Agreement is entered into by the City in recognition of laws passed by the General Assembly and regulations adopted by the Board which encourage a tiered-approach to remediating environmental contamination. This Agreement is entered into by the City in the spirit of those laws. Should any provision of this Agreement be determined to exceed the authority of the City, however, this Agreement shall be null and void.
- 11. This Agreement (including attachments, addendums, and amendments) shall run with the land and be binding upon all assigns and successors in interest to the Owner/Operator of the Site.
- 12. The City will limit access to the Site and rights-of-way as follows:
 - 1. Normal Access: The City will limit access to the Site and rights-of-way via the City Department of Transportation or its successor agency, by which persons seeking authorization to perform subsurface work in a City right-of-way will be informed of the nature and extent of the contamination, and will be informed that they should take appropriate steps to ensure the heath and safety of people working at the Site and rights-of-way.
 - 2. Emergency Access: The City Board of Underground, the City Department of Buildings, and the Chicago Fire Department or their successor agencies will be notified of the contamination at this Site and adjacent rights-of-way and will be provided with all available environmental data regarding the Site and adjacent rights-of-way. Such information will be provided to utilities in the area.
- 13. This Agreement shall continue in effect from the date of the Agreement until contaminant concentrations in the soil and groundwater are subsequently reduced through active remediation or through natural attenuation to Tier I residential levels as approved by the Illinois EPA and Board regulations, such that the right-of-way identified in Attachment B is demonstrated to be suitable for Tier I residential use and there is no longer a need for this Agreement, and the Illinois EPA has, upon written request to the Illinois EPA and notice to the City, amended the "No Further Remediation" determination for the Site to reflect Tier I residential use of that right-of-way.

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14. Written notice and other communications relating to this agreement directed to the City shall be sent to:

Commissioner
Department of Environment
30 N. LaSalle Street
25th Floor
Chicago, IL 60602

15. Written notice and other communications relating to this agreement directed to wer/Operator shall be sent to:

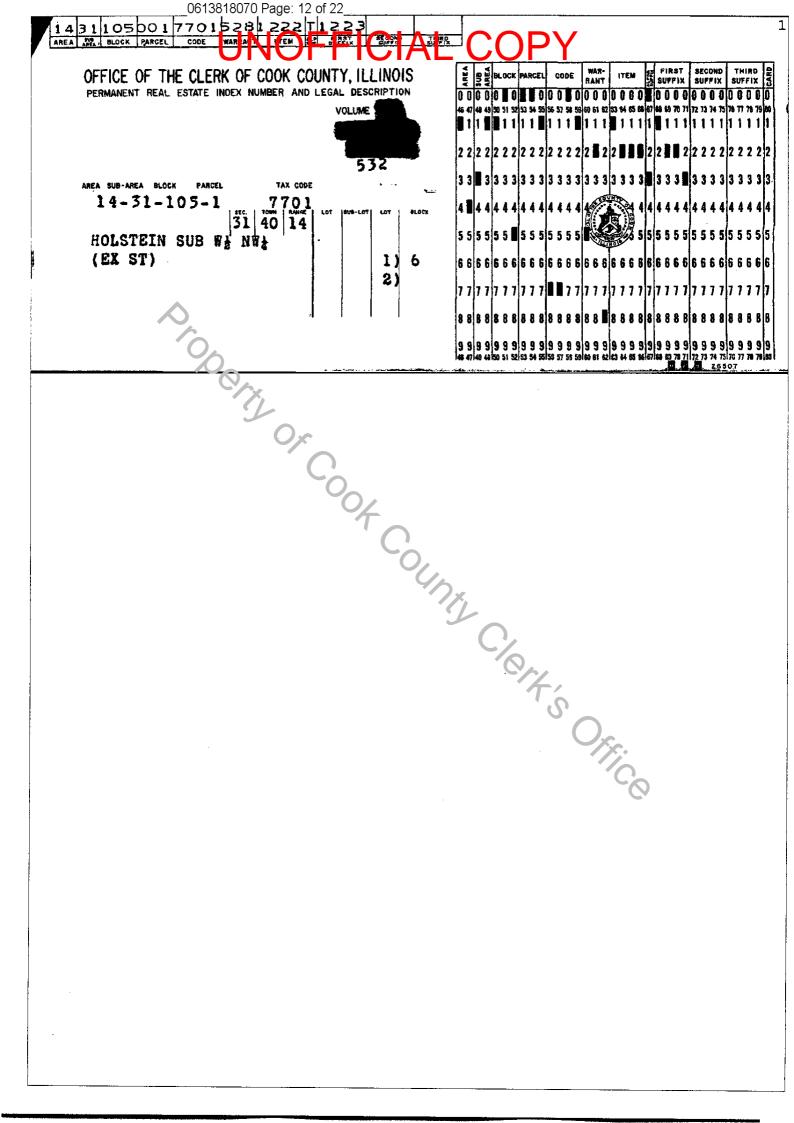
IN WITNESS WHEREOF, the City of Chicago has caused this Agreement to be signed by its duly authorized representative: BY:_ Sadhu Tohnston Commissioner Department of Environment IN WITNESS WHEREOF, Owner, Mid Amorica Band fused this Agreement to be signed by its duly authorized representative: BY: (Sign here) (Print name here) IN WITNESS WHEREOF, Operator, Mid America has caused this Agreement to be signed by its duly authorized representative; BY: (Sign here) Swift Thrup dean (Print name here)

Revised Nov. 13, 2000

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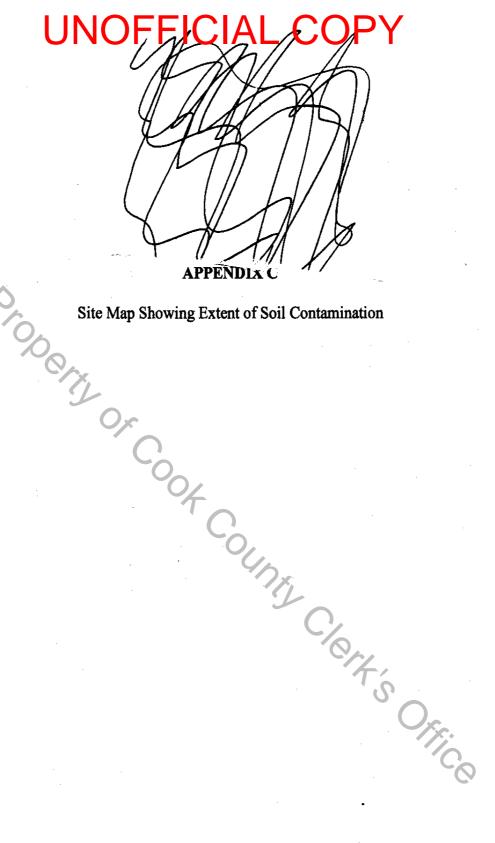


0613818070 Page: 13 of 22 143110500277015281.224 A Fix SECOND THIRD SUFFIX S BLOCK PARCEL CODE WAR-FIRST SUFFIX OFFICE OF THE CLERK OF COOK COUNTY, ILLINOIS PERMANENT REAL ESTATE INDEX NUMBER AND LEGAL DESCRIPTION VOLUME 532 |2 2|2 2|2 2 2|2 2 |||2 2 2 2|2 || 2|2 || 2|2 || 2|2 ||2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2 2|2 2 2|2 2 2|2 2 2|2 2 2|2 2 2|2 2 2 2|2 2 2|2 2 2|2 2 2|2 2 2|2 2 2|2 2 2|2 2 2|2 2 2|2 2 2|2 2 2|2 2 2|2 2 2|2 2 2|2 2|2 2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 2|2 |3 3||| 3|3 3 3|3 3 3|3 3 3|3 3 3|3 3 3|3 3 3 3|3 3 3 3|3 3 3 3|3 3 3 3|3 AREA SUB-AREA BLOCK PARCEL TAX CODE . <u>~</u>=-. 14-31-105-2 LOT BLOCK |5 5 | 5 5 | 5 5 | 1 5 5 5 5 5 5 5 1 1 HOLSTEIN SUB WE NOL (EX ST) 3 Property of County Clerk's Office 6

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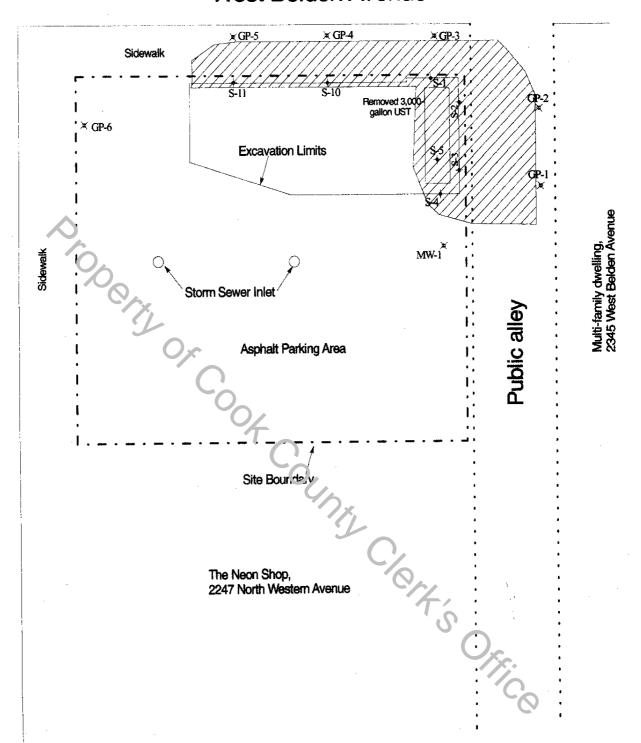
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West Belden Avenue



- + S-1 = Clsoure Soil Sample ID
- ★ GP-1 = Soil Boring Location ID



North Western Avenue

= Benzene Concentration above Tier 1 SROs

Figure 5 - Extent of Contamination Map

2255 N. Western Avenue Chicago, Illinois

EPS Environmental Services, Inc. 7237 West Devon Avenue, Chicago, Illinois 60631



icago, illinois 60631 North

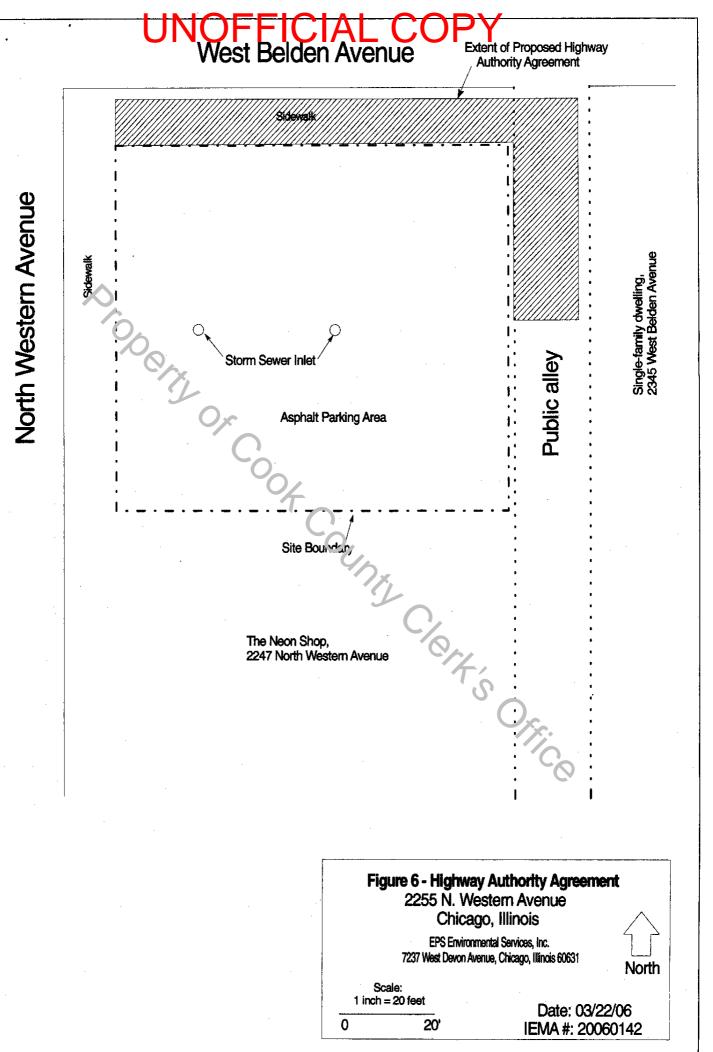
Scale:

1 inch = 20 feet

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20'

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SB-1/8

\$-10

S-5

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<0.005

0.0368

0.0147

0.027

0.0618

< 0.0075

< 0.0075

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< 0.785 < 0.262 < 0.262

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0.025

0.025 0.039

0.063 < 0.283

2251 N. Western Avenue, Chicago, Illinois Project:

6529-1005 Project #:

Various

EMT and Test America

Laboratory:

Sampled:

Table	e 1.	Table 1. Soil Analytical Results	ıtytical R	esults				
Amon Incine		Exposure Route SROs*	Exposure Route-Specific Soil Component of GW SROs* Ingestion Route*	Soil Compo Ingestion	I Component of GW Ingestion Route*	ō	60	
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		ingestion	inhalation	(ass	Cass			C
								×
Benzene	B	12	8.0	0.03	0.17	60.0	0.634	0.23
Ethylbenzene	q	7800	400	13	19	0.048	0.43	1.44
Methyl tert-butyl ether	q	280	0088	0.32	0.32	< 0.275	-0 285	< 0.274
Toluene	q	16,000	099	12	53	< 0.275	< 0.285	< 0.274
Xylenes (total)	q	160,000	320	150	150	0.5	0.5	3.13

* Illinois EPA Tier 1 SROs; 35 IAC 742, Appendix B, Table A (Residential)

All results in parts per million (mg/Kg) based on dry weight unless noted otherwise

NRO = No Remediation Objective

a = Carcinogenic b = Noncarcinogenic

Results in Bold indicate concentrations exceeding most stringent Tie CROs.

Office

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2251 N. Western Avenue, Chicago, Illinois

Project:

6529-1005

EMT and Test America Laboratory: Project #: Sampled:

Table 1. Soil Analytical Results

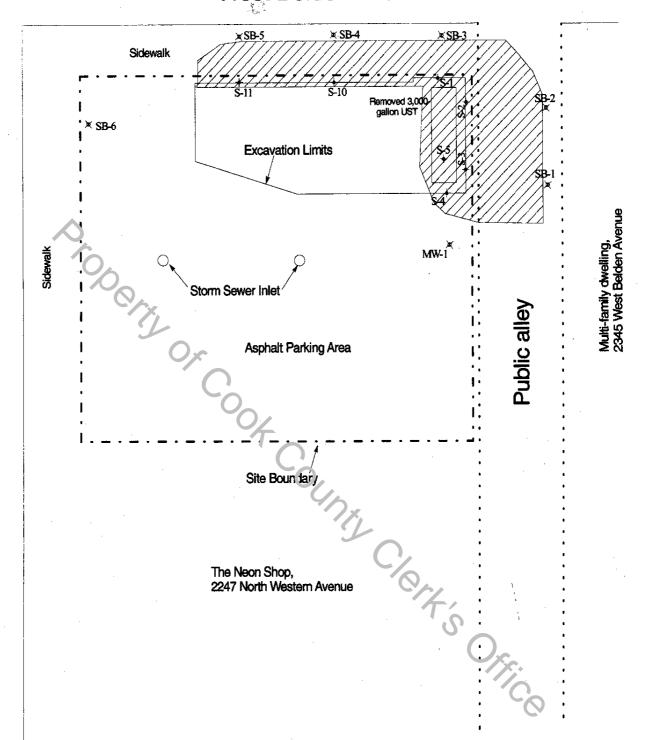
Chemical Name Exposure Floute-Specific Soil Component of GW SROs* SROs* Ingestion Ingestion Route* Chemical Name Residential Class I Class II Benzene a 12 0.8 0.03 0.17 Ethylbenzene b 780 400 13 19 Melthyl tent-butyl ether b 780 8800 0.32 0.32 Tolluene b 16,000 650 12 29 Xyfenes (total) b 160,000 320 150 150 Lake A00 NRO NRO NRO NRO		Exposure Ro	urte-Specific	Children	Wort of GW			•	3		
Residential Class		SR	,sc	Ingestion	Route*	,0/C 00	3/6	CR Aic.	SR.5/R	SB-6/8	MW-1/6'
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zene b 7800 400 13 rt-butyl ether b 780 8800 0.32 (total) b 16,000 850 12 (total) b 166,000 320 150 400 NRO NRO NRO				0.03	0,17	<0.0241	<0.02-3	<0.0236	<0.0235	<0.0235	<0.0241
Mether b 780 8800 0.32 0.32 0.32 0.32 0.32 0.32 0.32 0.	zene		6	13	19	<0.316	<0.31)	<0.31	<0.309	<0.309	<0.318
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es (toring) to 1660,0000 S200 1500 1500 1500 NFO NFO NFO			099	12	83	<0.316	< 0.319	<0.31	<0.309	<0.309	<0.318
400 NSO NRO	(testal)	L	88	81	35	<0.2(6	<0.319	<0.31	0306	<0.306	<0.318
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1 400 NRO 0.0075 0.		400	OHN	0.0075	O	<0.005	900'0>	<0.005	<0.005	<0.005	<0.005

All results in parts per million (mg/Kg) based on dry weight unless noted other Mr.

NRO = No Remediation Objective

u = Carcinogenic b = Noncarcinogenic Results in **Bold** indicate concentrations exceeding most stringent Tier 1 SROs.

West Belden Avenue



→ S-1 = Clsoure Soil Sample ID

➤ GP-1 = Soil Boring Location ID

North Western Avenue

= Benzene Concentration above Tier 1 SROs

Figure 5 - Extent of Contamination Map

2255 N. Western Avenue Chicago, Illinois

EPS Environmental Services, Inc. 7237 West Devon Avenue, Chicago, Illinois 60631



North

Scale: 1 inch = 20 feet

20'

0

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