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Eugene "Gene" Moore
Cook County Recorder of Deeds
Date: 05/18/2008 01:01 PM Pg: 1 of 15

Property of Cook County Clerk's Office
Highway Authority Agreement

Mail recorded document to:

Scott Theuerkauf
MidAmerica Bank
ATTN: Business Banking Group
2650 Warrenville 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 2nd day of May, 2006 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 located 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 possibly impacted with contaminants from a release at the Site.
 - c. 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 1 residential remediation objectives under the Act and 35 Ill. 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 1 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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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 there 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 have 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 contaminants 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 as 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 health 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 Owner/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 Johnston Date: 5/2/06
 Sadhu Johnston
 Commissioner
 Department of Environment

IN WITNESS WHEREOF, Owner, Mid America Bank has caused this Agreement to be signed by its duly authorized representative:

BY: (Sign here) Allen Koranda Date: 3/24/06
 (Print name here) Allen Koranda

IN WITNESS WHEREOF, Operator, Mid America Bank has caused this Agreement to be signed by its duly authorized representative:

BY: (Sign here) Scott Thompson Date: 3/24/06
 (Print name here) Scott Thompson

Revised Nov. 13, 2000

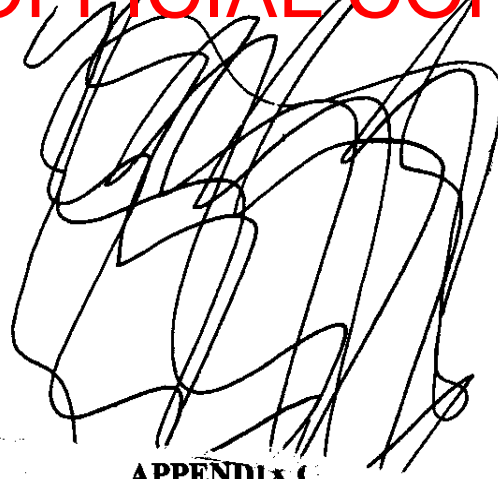
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APPENDIX C

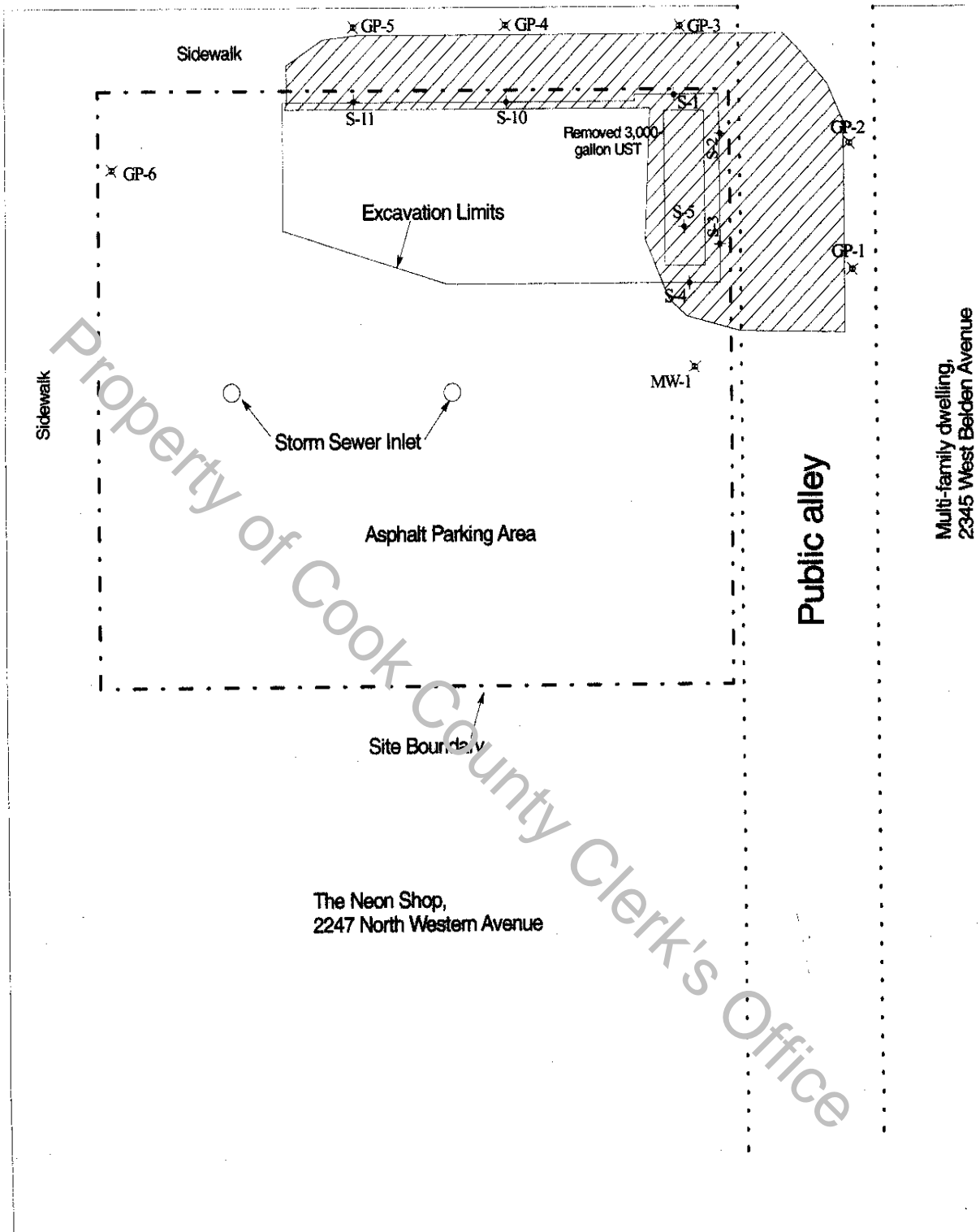
Site Map Showing Extent of Soil Contamination

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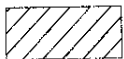
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West Belden Avenue

North Western Avenue



- ◆ S-1 = Closure Soil Sample ID
- ✕ GP-1 = Soil Boring Location ID

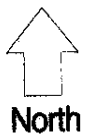


= Benzene Concentration
above Tier 1 SROs

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

0 20'

Date: 03/22/06
IEMA #: 20060142

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West Belden Avenue

Extent of Proposed Highway Authority Agreement

North Western Avenue

Sidewalk

Sidewalk

Storm Sewer Inlet

Asphalt Parking Area

Site Boundary

Public alley

Single-family dwelling,
2345 West Belden Avenue

The Neon Shop,
2247 North Western Avenue

Figure 6 - Highway Authority Agreement
2255 N. Western Avenue
Chicago, Illinois

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



Scale:
1 inch = 20 feet

0 20'

Date: 03/22/06
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APPENDIX D

Table Showing Laboratory Results
of Soil Samples

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Project: 2251 N. Western Avenue, Chicago, Illinois
Project #: 6528-1005
Sampled: Various
Laboratory: EMT and Test America

Table 1. Soil Analytical Results

Chemical Name	Exposure Route-Specific SROs*		Soil Component of GW Ingestion Route*		S-1	S-2	S-3	S-4	S-5	S-10	SB-1/8*
	Residential		Class I	Class II							
	ingestion	inhalation									
Benzene	a	12	0.8	0.03	0.09	0.634	0.23	0.063	0.039	0.16	<0.0242
Ethylbenzene	b	7800	400	13	0.048	0.13	1.44	0.07	0.025	0.025	<0.318
Methyl tert-butyl ether	b	780	8800	0.32	<0.275	<0.285	<0.274	<0.283	<0.262	<0.232	NA
Toluene	b	16,000	650	12	<0.275	<0.285	<0.274	<0.283	<0.262	<0.232	<0.318
Xylenes (total)	b	160,000	320	150	0.5	0.5	3.13	0.084	<0.785	0.13	<0.318
Lead		400	NRO	NRO	9.6	15.8	15.6	17.2	16.2	19.8	NA
Lead		400	NRO	0.0075	<0.0075	<0.0075	0.0618	0.027	0.0147	0.0368	<0.005

* 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 Tier 1 SROs.

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Project: 2251 N. Western Avenue, Chicago, Illinois
Project #: 6528-1005
Sampled: Various
Laboratory: EMT and Test America

Table 1. Soil Analytical Results

Chemical Name	Exposure Route-Specific SROs*		Soil Component of GW Ingestion Route*		SB-2/8'	SB-3/6'	SB-4/6'	SB-5/6'	SB-6/6'	MW-1/6'
	Residential		Class I	Class II						
	Ingestion	Inhalation								
Benzene	a	12	0.8	0.03	0.17	<0.0241	<0.0236	<0.0235	<0.0235	<0.0241
Ethylbenzene	b	7800	400	13	19	<0.316	<0.31	<0.309	<0.309	<0.318
Methyl tert-butyl ether	b	780	8800	0.32	0.32	NA	NA	NA	NA	NA
Toluene	b	16,000	650	12	29	<0.316	<0.31	<0.309	<0.309	<0.318
Xylenes (total)	b	160,000	320	150	150	<0.316	<0.31	<0.309	<0.309	<0.318
Lead		400	NRO	NRO	NRO	NA	NA	NA	NA	NA
Lead		400	NRO	0.0075	0.	<0.005	<0.005	<0.005	<0.005	<0.005

* 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

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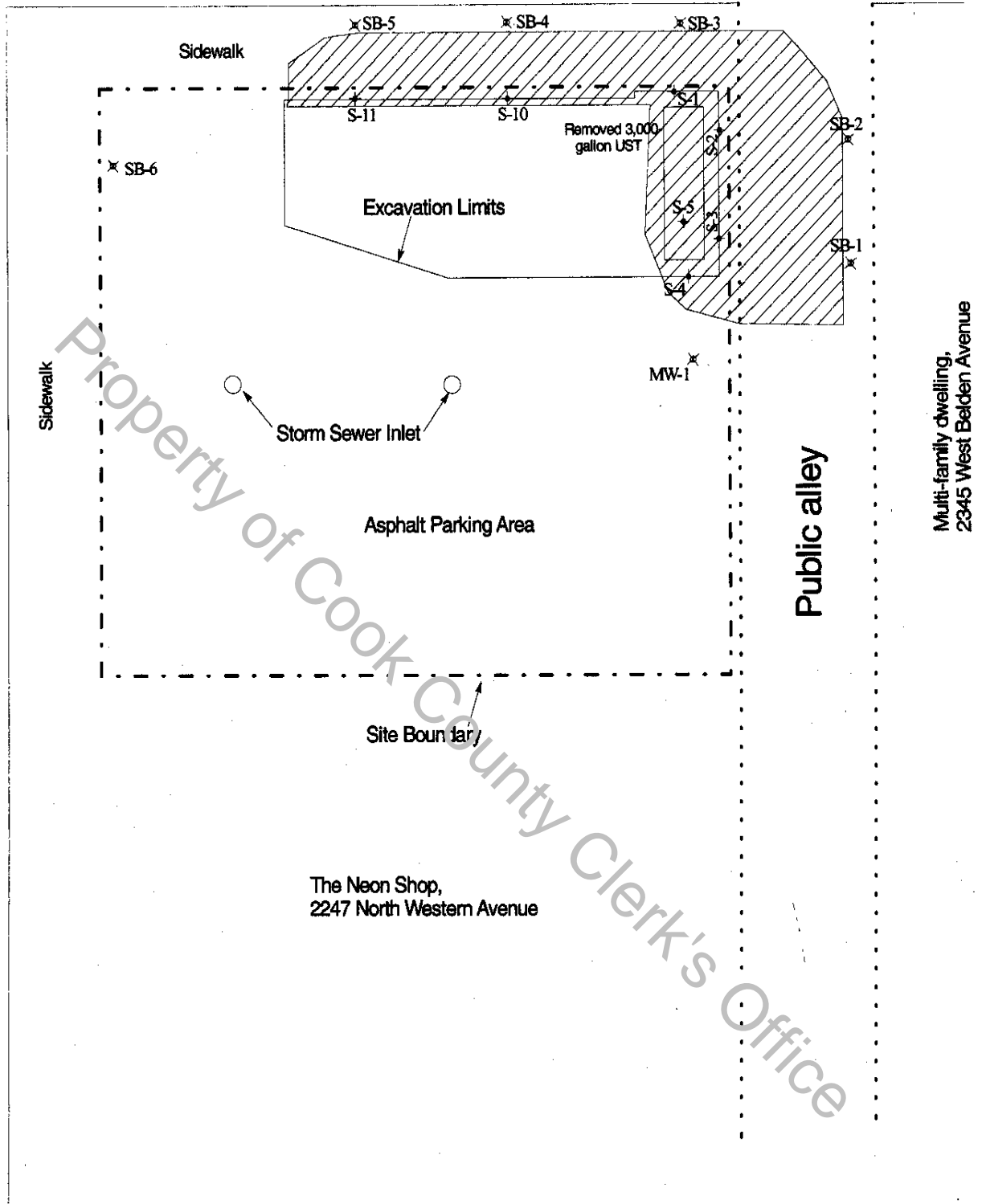
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West Belden Avenue

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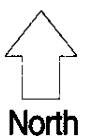
- ✦ S-1 = Closure Soil Sample ID
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= Benzene Concentration above Tier 1 SROs

Figure 5 - Extent of Contamination Map

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