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PREPARED BY:

Rich Slager Name:

Ozinga Ready Mix Concrete

Address: 2225 S. Ford Avenue

Chicago, IL 60616

RETURN TO:

Rich Stager Name:

Ozinga Poady Mix Concrete

Address: 19001 Old LaCrange Road

Mokena, IL o0448

Doc#: 0932239035 Fee: \$68.00 Eugene "Gene" Moore

Cook County Recorder of Deeds Date: 11/18/2009 11:32 AM Pg: 1 of 17

(THE ABOVE SPACE FOR RECORDER'S OFFICE)

LEAKING UNDERGROUND STORAGE TANK ENVIRONMENTAL NOTICE

THE OWNER AND/OR OPERATOR OF THE LEAKING UNDERGROUND STORAGE TANK SYSTEM(S) ASSOCIATED WITH THE RELEASE REFERENCED DFLOW, WITHIN 45 DAYS OF RECEIVING THE NO FURTHER REMEDIATION LETTER CONTAINING THIS NOTICE, MUST SUBMIT THIS NOTICE AND THE REMAINDER OF THE NO FURTHER REMEDIATION LETTER TO THE OFFICE OF THE RECORDER OR REGISTRAR OF TITLES OF COOK COUNTY IT WHICH THE SITE DESCRIBED BELOW IS LOCATED.

Illinois EPA Number: 0316345115 Leaking UST Incident No.: 20090912

Ozinga Ready Mix Concrete, the owner and/or operator of the leaking ur derground storage tank system(s) associated with the above-referenced incident, whose address is 10001 Old LaGrange Road, Mokena, IL 60448, has performed investigative and/or remedial activities for the site identified as follows:

- Legal Description or Reference to a Plat Showing the Boundaries: See Attached 1.
- Common Address: 2225 S. Ford Ave., Chicago, IL 60616 2.
- Real Estate Tax Index/Parcel Index Number: 17-28-102-003-0000, 17-28-102-004-0000, 3. 17-28-102-005-0000, 17-28-102-006-0000
- Site Owner: Ozinga Ready Mix Concrete 4.
- Land Use Limitation: The land use shall be industrial/commercial. 5.
- See the attached No Further Remediation Letter for other terms. 6.

JDB

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# ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 North Grand Avenue East, P.O. Box 19276, Springfield, fillinois 62794-9276 • (217) 782-2829 James R. Thompson Center, 100 West Randolph, Suite 11-300, Chicago, IL 60601 • (312) 814-6026

PAT QUINN, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

217/782-6762

CERTIFIED MAIL

NOV 1 3 2009

7007 2560 0003 2090 2278

Ozinga Ready Mix Concrete Attn: Rich Slager 19001 Old LaGrang: Road Mokena, IL 60448

Re:

LPC # 0316345115 -- Cook County Chicago/Ozinga Ready Mix Concrete 2225 S. Ford Avenue Leaking UST Incident No. 20050912 -- NFR Letter Leaking UST Technical File

Dear Mr. Slager:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the 45-Day Report submitted for the above-referenced incident. This information was dated October 8, 2009 and was received by the Illinois EPA on October 16, 2009. Citations in this letter are from the Environmental Protection Act (Act), as amended by Public Act 92-0554 on June 24, 2002, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

The Early Action Tier 1 Remediation Objectives Compliance Report and the Licensed Professional Engineer Certification submitted pursuant to Section 57.6 of the Act and 35 Ill. Adm. Code 734.135(d) indicate the remediation objectives have been met.

Based upon the certification by Daniel M. Caplice, a Licensed Professional Engineer and pursuant to Section 57.10 of the Act (415 ILCS 5/57.10), your request for a no further remediation determination is granted under the conditions and terms specified in this letter.

Issuance of this No Further Remediation Letter (Letter), based on the certification of the Licensed Professional Engineer, signifies that: (1) all statutory and regulatory corrective action requirements applicable to the occurrence have been complied with; (2) all corrective action concerning the remediation of the occurrence has been completed; and (3) no further corrective action concerning the occurrence is necessary for the protection of human health, safety, and the environment. Pursuant to Section 57.10(d) of the Act, this Letter shall apply in favor of the following parties:

1. Ozinga Ready Mix Concrete, the owner or operator of the underground storage tank system(s).

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- 2. Any parent corporation or subsidiary of such owner or operator.
- 3. Any co-owner or co-operator, either by joint tenancy, right-of-survivorship, or any other party sharing a legal relationship with the owner or operator to whom the Letter is issued.
- 4. Any holder of a beneficial interest of a land trust or inter vivos trust whether revocable or irrector ble.
- 5. Any mortgagee or trustee of a deed of trust of such owner or operator.
- 6. Any successor-in interest of such owner or operator.
- 7. Any transferee of such owner or operator whether the transfer was by sale, bankruptcy proceeding, partition, dissolution of marriage, settlement or adjudication of any civil action, charitable gift, or bequest.
- 8. Any heir or devisee of such owner or operator.
- 9. An owner of a parcel of real property to the extent that this Letter applies to the occurrence on that parcel.

This Letter and all attachments, including but not limited to the Leaking Underground Storage Tank Environmental Notice, must be filed within 45 days of receir t as a single instrument with the Office of the Recorder or Registrar of Titles in the county in which the above-referenced site is located. In addition, the Groundwater Ordinance (photocopy attached) must be filed as an attachment of this Letter with the Office of the Recorder or Registrar of Titles of the applicable county. This Letter shall not be effective until officially recorded by the Office of the Recorder or Registrar of Titles of the applicable county in accordance with Illinois law so it forms a permanent part of the chain of title for the above-referenced property. Within 30 days of this Letter being recorded, an accurate and official copy of this Letter, as recorded, shall be obtained and submitted to the I'linois EPA. For recording purposes, it is recommended that the Leaking Underground Storage Tank Environmental Notice of this Letter be the first page of the instrument filed.

#### CONDITIONS AND TERMS OF APPROVAL

#### LEVEL OF REMEDIATION AND LAND USE LIMITATIONS

1. The remediation objectives have been established in accordance with an industrial/commercial land use limitation. The remediation objectives for the above-referenced site, more particularly described in the Leaking Underground Storage Tank Environmental Notice of this Letter, were established in accordance with the requirements of the Tiered Approach to Corrective Action Objectives (35 Ill. Adm. Code 742) rules.

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- As a result of the release from the underground storage tank system(s) associated with the 2. above-referenced incident, the above-referenced site, more particularly described in the attached Leaking Underground Storage Tank Environmental Notice of this Letter, shall not be used in a manner inconsistent with the following land use limitation: The land use shall he industrial/commercial.
- The land use limitation specified in this Letter may be revised if: 3.
  - Fu ther investigation or remedial action has been conducted that documents the a. art in ment of objectives appropriate for the new land use; and
  - A new No Further Remediation Letter is obtained and recorded in accordance with b. Title XVII of the Act and regulations adopted thereunder.

#### PREVENTIVE, ENGINEERING, AND INSTITUTIONAL CONTROLS

Preventive: 4.

Prior to commerce nent of any future excavation and/or construction in or near the contaminated zone of the remediation site, a safety plan for this remediation site is required that is consistent with the National Institute for Occupational Safety and Fleat h Guidance Manual for Hazardous Waste Site Activities; Occupational Safety and Health Administration regulations, particularly in 29 CFR 1910 and 1926; state and local regulations; and other U.S. EPA guidance as provided. At a minimum, the plan should address possible worker exposure if any future excavation and construction activities occur within the contaminated soil.

Engineering:

A concrete/asphalt that is sufficient in thickness to inhibit the inhalation and ingestion of the contaminated media must remain over the contaminated soil as outlined in the attached Site Base Map. This conc ere/asphalt is to be properly maintained as an engineered barrier to inhibit it halation and ingestion of the contaminated media.

Institutional:

This Letter shall be recorded as a permanent part of the chain of atle for the above-referenced site, more particularly described in the attached Leaking Underground Storage Tank Environmental Notice of this Letter.

#### Groundwater Use Ordinance

Ordinance 097990 adopted by the City of Chicago effectively prohibits the installation of potable water supply wells (and the use of such wells) and is an acceptable institutional control under the following conditions:

The current owner or successor-in-interest of this site who relies on a. this ordinance as an institutional control shall:

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- i. Monitor activities of the unit of local government relative to variance requests or changes in the ordinance relative to the use of potable groundwater at this remediation site; and
- ii. Notify the Illinois EPA of any approved variance requests or ordinance changes within 30 days after the date such action has been approved.
- Each affected property owner, potentially affected property owner (as identified through contaminant modeling), and the City of Chicago must receive written notification from the owner or operator desiring to use the ordinance as an institutional control that groundwater remediation objectives have been approved by the Illinois EPA.

  Written proof of this notification shall be submitted to the Illinois EFA in accordance with 35 Ill. Adm. Code 742.1015(b) and (c) within 45 days from the date this Letter is recorded. The notification shall include:
  - i. The name and address of the unit of local government;
  - ii. The citation of the ordinance used as an institutional control in this Letter;
  - iii. A description of the property being sent notice by adequate legal description or by reference to a plat showing the boundaries;
  - iv. A statement that the ordinance restricting the groundwater use was used by the Illinois EPA in reviewing a request for groundwater remediation objectives;
  - v. A statement as to the nature of the release and response action with the name, address, and Illinois EPA inventory identification number; and
  - vi. A statement as to where more information may be obtained regarding the ordinance.

The following activities shall be grounds for voidance of the ordinance as an institutional control and this Letter:

 Modification of the referenced ordinance to allow potable uses of groundwater. 0932239035 Page: 6 of 17

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- b. Approval of a site-specific request, such as a variance, to allow use of groundwater at the site.
- c. Violation of the terms of a recorded institutional control.
- 5. Failure to establish, operate, and maintain controls in full compliance with the Act, applicable regulations, and the approved corrective action plan, if applicable, may result in voidance of this Letter.

#### OTHER TERMS

- Any contaminated soil or groundwater removed or excavated from, or disturbed at, the above-referenced site, more particularly described in the Leaking Underground Storage Tank Environmental Notice of his Letter, must be handled in accordance with all applicable laws and regulations under 35 ill. Adm. Code Subtitle G.
- 7. Further information regarding the above-referenced site can be obtained through a written request under the Freedom of Info mation Act (5 ILCS 140) to:

Illinois Environmental Protection Agency
Attention: Freedom of Information Act Officer
Bureau of Land - #24
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276

- Pursuant to 35 Ill. Adm. Code 734.720, should the Illinois EPA scek to void this Letter, the Illinois EPA shall provide Notice of Voidance to the owner or operator of the leaking underground storage tank system(s) associated with the above-referenced incident and the current title holder of the real estate on which the tanks were located, at their last known addresses. The notice shall specify the cause for the voidance, explain the provisions for appeal, and describe the facts in support of the voidance. Specific acts or omissions that may result in the voidance of this Letter include, but shall not be limited to:
  - a. Any violation of institutional controls or industrial/commercial land use restrictions;
  - b. The failure to operate and maintain preventive or engineering controls or to comply with any applicable groundwater monitoring plan;
  - c. The disturbance or removal of contamination that has been left in-place in accordance with the Corrective Action Plan or Completion Report;

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- The failure to comply with the recording requirements for the Letter; đ.
- Obtaining the Letter by fraud or misrepresentation; or e.
- Subsequent discovery of contaminants, not identified as part of the investigative or f. remedial activities upon which the issuance of the Letter was based, that pose a threat to human health or the environment.

Submit an accurrie and official copy of this Letter, as recorded, to:

Illinois Environmental Protection Agency Bureau of Land #25 Leaking Undergrourd Storage Tank Section 1021 North Grand Aver ue East Post Office Box 19276 Springfield, IL 62794-9276

If you have any questions or need further assistance, please contact the Illinois EPA project manager, Colling Clark's Office John Barrett, at (217) 782-4869.

Sincerely

Thomas A. Henninger

Unit Manager

Leaking Underground Storage Tank Section

Division of Remediation Management

Bureau of Land

TAH:JDB

Attachments: Leaking Underground Storage Tank Environmental Notice

Groundwater Ordinance 097990

Drawing showing the Engineered Barrier

Legal Description

K-Plus Environmental Services c:

**BOL File** 

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The following is said ordinance as passed:

Be It Ordained by the City Council of the City of Chicago:

SFCTION 1. Chapter 11-8 of the Municipal Code of Chicago is hereby amended by adding a new Section 11-8-385 and by amending Section 11-8-390 by inserting the language in italics, as follows:

11-8-365 Potable Water Defined.

Potable water is any water used for human consumption, including, but not limited to water used for drinking, bathing, washing dishes, preparing foods and watering gardens in which produce intended for human consumption is grown.

11-8-390 Prohibited Use Of Secondary Water; Prohibited Installation Of New Potable Water Supriy Wells.

No secondary water shall overflow into or be discharged into any surge tank, storage tank, or reservoir, or shall in any way be piped or conveyed into the water supply system of any outlding, structure, or premises to become a part of or be mixed with the tresh water supply from the mains of the Chicago Waterworks System either inside of the premises or in the water service pipe. Secondary water shall inche piped to or used in any plumbing fixture, or for cooling crushers, rolling, or mixers where foods, candies, liquids or materials are manufactured for human or animal consumption. No connection, tap, or opening shall be made in a water distribution system other than an approved water distribution system which will permit such water being used for drinking.

Wherever the fire-protective equipment in any building, cructure or premises has service from the Chicago Waterworks System, no pipe or other conduit which conveys secondary water shall be cross-cornected to the fire-protective equipment. All fire-protective equipment connected to the Chicago Waterworks System shall be constructed in such manner that

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all tanks, pipes, pumps, surge tanks, and fire hydrants can be thoroughly drained, flushed and cleaned by the owners of such equipment and premises and there shall be no direct connections from the tanks, pipes and other equipment to any drainage pipes or sewers. No groundwater well, cistern or other groundwater collection device installed after the effective date of this amendatory ordinance may be used to supply any praile water supply system, except at points of withdrawal by the City of Chicago or by units of local government pursuant to intergovernmental agree nent with the City of Chicago.

SECTION 2. Section 2-30-030 of the Municipal Code of Chicago is hereby amended by descring the language in brackets and inserting the language in italics, as follows.

2-30-030 Commissioner -- Powers And Duties Designated.

The commissioner of the invironment shall have the following powers and duties:

\* \* \* \* \*

(21) To enter into grant agreements, cooperation agreements and other agreements or contracts with governmental entities, private business and civic and community groups necessary to implement the Green Streets Program and other urbar forestry, beautification and environmental enhancement programs; and agreements to implement the State of Illinois Site Remediation Program;

SECTION 3. This ordinance shall be in full force and effect from and after its passage and approval.

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750 Price

STATE OF HAINOIS, County of Cook. 1 ........ City Clerk of the City of Chicago in the County I, JAMES J. LASKI of Cook and State of Illinois, DO HEREBY CERTIFY that the annexed and foregoing is a true and correct copy of that certain ordinance now on file in my office, amending, ... Title, 11, ..... ...Chapter..8..and .Title..2....Chapter...30.of..Hunicipal..Code.of..Chicago.by.establishing ...the definition and regulation of the potable water supply system and Empowerment ...of.Commissioner.of Environment for implementation of State of Illinois Site..... ...Remediation.Prugate. I DO FURTHER JESTIFY that the said ordinance was passed by the City Council of and deposited in my office on the fourteenth (.14th) day of May A.D. 19..97... I DO FURTHER CERTIFY that the vote on the question of the passage of the said ordinance by the said City Council was taken by year and mays and recorded in the Journal of the Proceedings of the said City Council, and that the result of said vote so taken was as follows, to wit: Yeas,....47..., Nays...none. I DO FURTHER CERTIFY that the said ordinance was delivered to the Mayor of the said City of Chicago after the passage thereof by the said City Jo neil, without delay, by the City Clerk of the said City of Chicago, and that the said Mayor ; id approve and sign the said A.D. 19..97 ordinance on the ..... fourteenth ..... (.14th) day of ..... May. I DO FURTHER CERTIFY that the original, of which the foregoing is a true copy, is entrusted to my care for safe keeping, and that I am the lawful keeper of the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of Chicago aforesaid, at the said City, in the County and State aforesaid, this third ..... [L.S.] day of February. UKIGINAL UBICINIVI

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City of Chleago Richard M. Daley, Mayor

Department of Environ

Henry L. Henderson Commissioner

Ewenty-fifth Floor 30 North LaSalle Street Chicago, litinois 60602-2575 1312) 744-7606 ( Voice) (312) 744-6451 (FAX) (312) 744-3586 (TTY)

hap://www.si.chi.il.us

Mr. Gary P. King Manager, Division of Remediation Management Bureau of Land Illinois Environmental Protection Agency 1001 N Grand Avenue, East Springheid, IL 62702

Re: Chicago Ordinance No. 097990

Deg. R.7. King:

Pursuant to 35 Itl. Adm. Code 742.1015(I)(2), Section 11-8-385 and 11-8-390 of the Municipal Code of Chicago, as amended by Ordinance No. 097990, apply to all areas within the corporate limits of the City of Chicago.

Sincerely

Henry L. Henderson Commissioner

Clart's Office Mort Ames CC: Asst. Corp. Counsel

Recycle!

EXHIBIT



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# **UNOFFICIAL COPY**

MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF CHICAGO, ILLINOIS AND THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY REGARDING (A) THE USE OF A LOCAL POTABLE WATER SUPPLY WELL ORDINANCE AS AN ENVIRONMENTAL INSTITUTIONAL CONTROL AND (B) THE PROVISION OF INFORMATION RELATING TO "NO FURTHER REMEDIATION" DETERMINATIONS BY THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY TO THE CITY OF CHICAGO

#### L POPPOSE AND INTENT

- This Memorandum of Understanding ("MOU") is entered into between the City of Chicago, This wis ("the City") and the Illinois Environmental Protection Agency ("Illinois A. EPA") for the purpose of (a) satisfying the requirements of 35 III. Adm. Code 742.1015 for the use of perable water supply well ordinances as environmental institutional controls and (b) ensuring that the City will be provided with copies of all "No Further Remediation" letters or determinations issued by the Illinois EPA pursuant to specific programs for sites located within the boundaries of Chicago, Illinois, in order to enable the City to maintain a complete and up-to-date registry of sites as required by 35 III. Adm. Code 742.1015(i)(5). The Hinois EPA has reviewed Sections 11-8-385 and 11-8-390 of the Municipal Code of Chicago as amended by Ordinance Number 097990 ("Potable Water Supply Well Ordinance"), ettached as Attachment A, and has determined that the Municipal Code of Chicago prol ibits the installation and use of new potable water supply wells by private entities but w'il rllow the installation of potable water supply wells by the City and other units of local government pursuant to intergovernmental agreements with the City. In such cases, 35 Ill. Adm. Code 742.1015(a) provides that the City may enter into an MOU with the Illinois EPA to allow the use of the ordinance as an institutional control.
  - B. The intent of this Memorandum of Understanding is to (a) specify the responsibilities that must be assumed by the City to satisfy the requirements for MOUs of set forth at 35 Ill. Adm. Code 742.1015(i), and (b) require the Illinois EPA to provide the City with copies of all "No Further Remediation" letters or determinations that the Illinois EPA issues for sites located within the City of Chicago to enable the City to maintain a registry of sites pursuant to 35 Ill. Adm. Code 742.1015(i)(5).

#### 11. DECLARATIONS AND ASSUMPTION OF RESPONSIBILITY

A. In order to ensure the long-term integrity of the Potable Water Supply Well Ordinance as an environmental institutional control and that risk to human health and the environment from contamination left in place in reliance on the Potable Water Supply Well Ordinance is effectively managed, the City hereby assumes the following responsibilities pursuant to 35 Ill. Adm. Code 742.1015(i):

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- 1. The City will notify the Illinois EPA Bureau of Land of any changes to or requests for variance from the Potable Water Supply Well Ordinance at least 30 days prior to the date the local government is scheduled to take action on the proposed change or request (35 Ill. Adm. Code 742.1015(i)(4));
- 2. The City will maintain a registry of all sites within its corporate limits that have received "No Further Remediation" determinations from the Illinois EPA pursuant to specific programs (35 Ill. Adm. Code 742.1015(i)(5));
- If the City determines to install a new potable water supply well(s), the City will review the registry of sites established under paragraph II.A.2. prior to siting such catable water supply well(s) within the area covered by the Potable Water Supply Well Ordinance, pursuant to 35 Ill. Adm. Code 742.1015(i)(6)(A);
- 4. If the City determines to install a new potable water supply well(s), the City will determine whether the potential source of potable water has been or may be affected by confination left in place at the sites tracked and reviewed under paragraphs II.A.2. 2003. (35 III. Adm. Code 742.1015(i)(6)(B)); and
- 5. If the City determines o install a new potable water supply well(s), the City will take action as necessary to contamination or treated before it is used as a potable water supply (35 Ill. Adm. Code 742.1015(i)(6 (C));
- 6. If the City enters into intergovernmenta agreements under Section 11-8-390 of the Municipal Code of Chicago to allow other units of local government to install new potable water supply well(s) within the corporate limits of the City, the City will require compliance with the procedures set forth in paragraphs II.A.3., 4., and 5, as a part of such agreements.
- Notification under paragraph II.A.1. above, or other communications concerning
  this MOU directed to the Illinois EPA, shall be addressed to:

Manager, Division of Remediation Management Bureau of Land Illinois Environmental Protection Agency P.O. Box 19276 Springfield, IL 62794-9276 ) Filos

B. In order to ensure the long-term integrity of the Potable Water Supply Well Ordinance as an environmental institutional control and that risk to human health and the environment from contamination left in place in reliance on the Potable Water Supply Well Ordinance or other specific programs can be effectively managed, the Illinois EPA hereby assumes

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#### the following responsibilities:

- The Illinois EPA will provide the City with copies of all "No Further Remediation" letters or determinations that it issues pursuant to 35 Ill. Adm. Code 742, and other specific programs, for sites located within the boundaries of the City at the time said letters or determinations are provided to remediation applicants.
- 2. Copies of "No Further Remediation" letters or determinations provided to the City pursuant to paragraph II.B.1. above, or other communications concerning this MOU directed to the City, shall be addressed to:

Commissioner
Chicago Department of Environment
25th Floor
30 North LaSalle Street
Chicago, IL 60602-2575

#### III. SUPPORTING DOCUMENTATION

The following documentation is required by 35 VII. Adm. Code 742.1015(i) and is attached to this MOU:

- A. Attachment A: A copy of the Potable Water Stopply Well Ordinance certified by the city clerk or other official as the current, controlling w.w (35 Ill. Adm. Code 742.1015(i)(3)) and a statement of the authority of the City to enter into the MOU (35 Ill. Adm. Code 742.1015(i)(1)).;
- B. Attachment B: Identification of the legal boundaries within which the Potable Water Supply Well Ordinance is applicable (35 Ill. Adm. Code 742.1015(i)(2)); and

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IN WITNESS WHEREOF, the lawful representatives of the parties have caused this MOU to be signed as follows:

FOR: The City of Chicago, Illinois

ment of Environment

City of Chicago

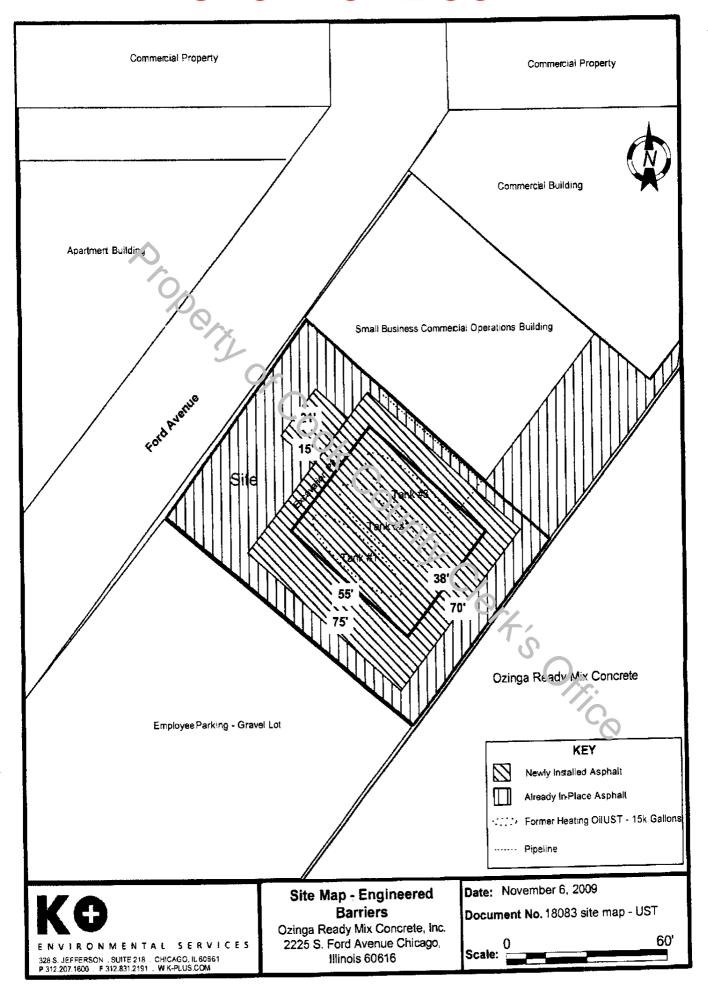
FOR: Illinois Environmental Protection Agency

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Version 6/27/97

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#### Legal Description:

LOTS 44 TO 48, INCLUSIVE, IN BLOCK 1 IN EDWARD MCCONNELL'S SUBDIVISION OF PART OF THE NORTH FRACTION OF THE NORTHWEST QUARTER OF SECTION 28, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Property of County Clark's Office