UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION V

IN THE MATTER OF: 2800 South Sacramento Avenue Respondents: City of Chicago and Chicago Park District UNDER THE AUTHORITY OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980, 42 U.S.C. § 9601, et seq., as amended.	)	Docket No. V-W-06-C-853 AGREEMENT AND COVENANT NOT TO SUE CITY OF CHICAGO OR CHICAGO PARK DISTRICT

I. INTRODUCTION

This Agreement and Covenant Not to Sue ("Agreement") is made and entered into by and between the United States on behalf of the United States Environmental Protection Agency ("EPA"), the City of Chicago, an Illinois municipal corporation ("City"), and the Chicago Park District, an Illinois municipal corporation ("Park District" and together with the City, the "City Parties").

This Agreement is entered into pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9601, *et seq.* and the authority of the Attorney General of the United States to compromise and settle claims of the United States.

The City intends to take ownership of approximately 24 acres of land located at 2800 South Sacramento Avenue in Chicago, Cook County, Illinois (the "Property"), commonly referred to as the "Celotex Site" (EPA ID No. ILD051053692), and thereafter transfer or lease the Property to the Park District. The Property is to be acquired by the City through a condemnation or sale in lieu of condemnation. The Property is generally bounded on the north by 27th Street; on the east by Sacramento and Whipple Avenues; on the west by Albany Avenue and on the south by an adjacent facility owned by the City. The Property is more precisely described in Exhibit A (Property Description) to the Declaration of Restrictive

Covenants in Exhibit 3, and its location and detail are depicted on the maps in Exhibits 1 and 2 (on which the Property is referred to as the "Celotex Site").

The City, through its Department of Zoning and Land Use Planning (formerly known as the Department of Planning and Development) and its Department of Environment, has been a leader in establishing sustainable development standards and initiatives for urban areas. Through its planning document entitled *CitySpace: An Open Space Plan for Chicago*, published in 1998, the City set a goal of providing at least two acres of open space for every 1,000 residents in each community. The Property is in the South Lawndale community, which currently has only three-fourths of an acre of open space for every 1,000 residents. The City Parties will develop the Property as a park, incorporating sustainable development practices and features as outlined below.

The Parties agree to undertake all actions required by the terms and conditions of this Agreement. The purpose of this Agreement is to settle and resolve, subject to reservations and limitations contained in Sections VII (Certification), VIII (United States' Covenant Not to Sue), IX (Reservation of Rights), and X (Respondents' Covenant Not to Sue), the potential liability of the City Parties under CERCLA for the Existing Contamination which might otherwise result from the City Parties becoming the owner and/or lessee of the Property.

The Parties agree that the City Parties' entry into this Agreement, and the actions to be undertaken by the City Parties in accordance with the Agreement, do not constitute an admission of any liability by the City Parties for the contamination at the Site or for the response action selected by EPA.

The resolution of this potential liability, in exchange for the City Parties' performance of the work required by this Agreement, is in the public interest.

II. DEFINITIONS

1. Unless otherwise expressly provided herein, the terms used in this Agreement which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations, including any amendments thereto.

a. "Administrative Settlement" shall mean the Administrative Settlement Agreement and Order on Consent for Removal Action, Docket No. V-W-06-C-853, effective August 28, 2006, entered into between EPA and Honeywell and attached hereto as Exhibit 4, together with all appendices, exhibits and subsequent modifications or amendments thereto.

b. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601 *et seq.*

c. "City" or "City of Chicago" shall mean the City of Chicago, an Illinois municipal corporation, its departments, agencies and instrumentalities, including but not limited to the Chicago Department of the Environment and the Chicago Department of Zoning and Land Use Planning, and any successor departments, agencies and instrumentalities.

d. "City Parties" shall mean the City and the Park District.

e. "Day" shall mean a calendar day unless expressly stated to be a working day. In computing any period of time under this Agreement, where the last day would fall on a Saturday, Sunday, or State of Illinois, City of Chicago or federal holiday, the period shall run until the close of business on the next working day.

f. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

g. "Existing Contamination" shall mean:

(1) any Hazardous Substances present or existing on or under the Property as of the effective date of this Agreement;

(2) any Hazardous Substances that migrated from the Property prior to the effective date of this Agreement;

(3) any Hazardous Substances presently at the Site that migrate onto or under or from the Property after the effective date of this Agreement; and

(4) any Hazardous Substances that have been removed from the Property, transported, and disposed of off-site pursuant to the Administrative Settlement.

h. "Hazardous Substances" shall have the meaning given that term in CERCLA Section 101(14), 42 U.S.C. § 9601(14).

i. "Institutional Controls" shall mean the Declarations of Restrictive Covenants in Exhibit 3.

j. "Park District" shall mean the Chicago Park District, an Illinois municipal corporation, its departments, agencies and instrumentalities, and any successor departments, agencies and instrumentalities.

k. "Parties" shall mean the United States (on behalf of EPA), and the City Parties.

l. "Property" shall mean approximately 24 acres located at 2800 South Sacramento Avenue in Chicago, Cook County, Illinois, and described in Exhibit A in the Declaration of Restrictive Covenants in Exhibit 3 of this Agreement. The general location of the Property is depicted on the map attached as Exhibit 1. The boundaries of the Property are generally laid out on the map attached as Exhibit 2.

m. "Site" shall mean the Property and all areas to which Hazardous Substances from the Property have come to be located.

n. "United States" shall mean the United States of America, its departments, agencies, and instrumentalities.

III. STATEMENT OF FACTS

2. Between 1911 and 1982, the Property was used by several companies to conduct various operations, including: distillation of coal tar to produce sealants and coatings; manufacture of asphalt roofing products; mixing of asphalt concrete; and production of driveway sealer.

3. In 1989, the Illinois Environmental Protection Agency ("IEPA") completed an initial CERCLA evaluation with a Preliminary Assessment. In 1991 and 1992, IEPA conducted inspections and sampling on the Property that identified several areas that contained materials and soils with concentrations of certain semi-volatile organic compounds ("SVOCs") in excess of background concentrations. EPA also conducted inspections of the Property.

4. In 1996, AlliedSignal Inc. ("AlliedSignal"), one of the companies EPA identified as a potentially responsible party, entered into an Administrative Order on Consent ("AOC") to conduct testing and produce an Engineering Evaluation/Cost Analysis ("EE/CA") for the Property.

5. In performing the EE/CA, AlliedSignal conducted a field investigation and risk assessment for the Property which reported the following: Volatile Organic Compounds ("VOCs") were elevated in the southwest area of the Property and increased with depth, with concentrations ranging between 25 and 83 parts per million (ppm) at 0 to 6 inches below surface and a maximum concentration of 272 ppm between 6 inches and 8 feet (taken at interval of 4 to 6 feet). VOC concentrations at greater depths (8 to 18 feet) were much higher, up to 862 ppm, and primarily located in the central west portion of the Property. Polycyclic aromatic hydrocarbons ("PAHs") were elevated in the northern and southern areas of the Property and also increased with depth, with maximum concentrations of 139 ppm benzo(a)pyrene equivalents ("BAPEQ") at 0 to 6 inches, 421 ppm BAPEQ at 1 to 2 feet, and 3,236 ppm BAPEQ at 8 to 10 feet.

6. Honeywell International, Inc., successor to AlliedSignal ("Honeywell"), published the EE/CA in September 2004. EPA issued an Action Memorandum in March 2005 selecting the appropriate response action for the Property. Honeywell agreed to conduct the response action for the Property pursuant to an Administrative Settlement (as defined in Section II). The City Parties are not parties to the Administrative Settlement and have no obligations under the Administrative Settlement. The conveyance of the Property to the City shall not release or otherwise affect the liability of Honeywell to comply with the Administrative Settlement.

7. The northern 22 acres of the Property are currently owned by 2600 Sacramento Corp., which operates the Property as a storage lot for semi-truck trailers. The southern 2 acres of the Property are currently owned by Monarch Paving Corp., but are not currently being used.

8. The City represents, and for the purposes of this Agreement EPA relies on the City's representation, that its involvement with the Property has been limited to the following: (i) the City has had no direct involvement in any prior use, contamination or remediation of the Property; (ii) as the municipality in which the Property is located, the City has provided various services to and has exercised its taxing authority and police powers with respect to the Property as typical of municipalities; (iii) the City has conducted certain investigations of the Property in connection with its proposed acquisition and development of the land, consisting of chemical analyses of soil boring samples and the performance of an independent risk assessment for a recreational land use scenario; and (iv) the City owns property adjacent to the south side of the Property. The Park District represents, and for the purposes of this Agreement EPA relies on the Park District's representation, that its involvement with the Property has been limited to the following: (i) the Park District has had no direct involvement in any prior use, contamination or remediation of the Property; (ii) the Park District has exercised its taxing authority with respect to the Property, as typical of local taxing bodies; and (iii) the Park District has conducted certain investigations of the land in connection with its proposed acquisition or lease and development of the Property.

IV. WORK TO BE PERFORMED

9. In consideration of and in exchange for the United States' Covenant Not to Sue in Section VIII, the City Parties shall: (i) develop the Property as a public park, utilizing the sustainable development practices in Paragraph 10, absent a force majeure event, within four years after securing adequate project financing to fully develop the Property, but in no event later than seven years after acquisition of the Property unless EPA gives prior written consent to a longer development period; (ii) after soliciting and considering public input regarding the intended uses for the Property as a park, develop park features consistent with the sustainable development practices listed in Paragraph 11; and (iii) record modifications to the Institutional Controls contained in Exhibit 3 to name the City Parties as Third Party Beneficiaries of the Declaration of Restrictive Covenants.

10. In developing the Property as a public park, the City Parties shall utilize all of the following sustainable development practices in a manner that preserves the cover remedy for the Property to the fullest extent possible and results in significant environmental benefits:

a. Adding topsoil and seeding. The City Parties shall cover the Property with topsoil and/or clay to a depth sufficient for the intended vegetative cover, over and above what is required in Paragraph 15 of the Administrative Settlement, excluding perimeter side slopes and any areas where topsoil would be inconsistent with recreational features that will be installed. The City Parties will seed such topsoil with vegetation consistent with the Sustainable Sites Initiative as described in subparagraph 10.b.

b. Sustainable Sites Initiative. The City Parties will follow the most current guidelines and standards for landscaping sustainability developed by the Sustainable Sites Initiative unless it can demonstrate that doing so is impractical or conflicts with park features developed in accordance with the community planning process described in Paragraph 11. In 2005, the Lady Bird Johnson Wildflower Center and the American Society of Landscape Architects partnered to create the Sustainable Sites Initiative, and in 2006 they were joined by

the United States Botanic Garden. The general concepts of the Sustainable Sites Initiative that apply to urban parks include:

(1) The construction process will identify practices and materials that minimize the environmental footprint of the park development.

(2) Park management and use will seek to emphasize recycling, energy efficiency and conservation, use of renewable energy sources, sustainable operations, and recycled materials. The City Parties will install recycling receptacles near public trash cans on the Property.

(3) As new features are added or changed at the Property, the City Parties will focus on scalability and sustainability by incorporating the park into its surrounding community as a niche for learning and developing environmental practices.

c. Increase Native Biodiversity. Native biodiversity refers to the number and variety of living organisms (plants and animals) that are native to an area. Greater native plant biodiversity attracts and sustains a greater diversity of native animals, including birds and butterflies. To increase native biodiversity, the City Parties will plant appropriate, habitat-specific, native trees, shrubs, grasses and wildflowers.

d. Control of Invasive Species: An invasive species is one that reproduces so aggressively that it threatens the survival and sustainability of other species, thus reducing biodiversity. Both native and non-native plants can become overpopulated in urban natural areas, thereby requiring management. The City Parties will manage invasive species on the Property using the current standards recommended by the Sustainable Sites Initiative, which may include a combination of the following techniques:

(1) Hand-pulling: carried out when the invasive plant is easily extracted from the soil (e.g., garlic mustard); and

(2) Girdling: a preferred technique used to remove relatively large invasive trees in order to prevent resprouting and minimize damage to surrounding vegetation (e.g., European buckthorn).

e. Wildlife Population Control. Wildlife species will be managed when they become overpopulated and threaten native biodiversity, cause significant damage to Park District landscapes and cause dangerous conditions for people. For example:

(1) Resident seagulls and Canada geese will be managed to reduce additional population growth by addling or oiling the eggs, removing nesting material or using other techniques to stabilize or reduce flock size;

(2) Monk parakeets will be discouraged from nesting on built infrastructure such as transformers, cell towers and light poles; and

(3) Beavers and rabbits will be trapped and released into more sustainable, larger areas in situations where their overpopulation obliterates immense amounts of vegetation.

f. Low-Mow Areas. The City Parties will maintain the tall grass fescue or other "no-mow" or "low-mow" plants along the perimeter slopes planted by Honeywell to stabilize the Property cover and reduce maintenance costs.

g. Plant Maintenance. The City Parties will not use chemical fertilizers, pesticides or herbicides on the Property consistent with the Sustainable Sites Initiative as described in subparagraph 10.b, except as necessary to prevent the transmission of pest-born disease. The City Parties will utilize Integrated Pest Management principles in place of chemical pesticides. Irrigation on the Property will use, to the extent feasible, gray water and collected rainwater. Mowers used on the Property will be designed to produce low or no emissions and to leave clippings in place. All trees will be mulched with cuttings from the Property or other Park District properties.

h. Drainage. The City Parties will manage all storm water on the Property so as to minimize discharge into the combined sanitary/storm sewer. EPA acknowledges that Honeywell is developing the storm water infrastructure for the Property in accordance with the City's stormwater regulations. EPA does not expect the City to change that infrastructure, but the City agrees to maintain that infrastructure and, where possible, will grade the Property when developing the park to maximize the runoff flow that drains to the Sanitary & Ship Canal, where it should increase water flow to the Chicago River, improve water quality and complement the ongoing efforts of the Metropolitan Water Reclamation District of Greater Chicago (MWRD) to remediate and restore the contaminated waterway.

i. Lighting. The City Parties will use energy efficient lighting, including solar-powered lighting, anywhere on the Property lighting is installed, except in those areas where it is impractical to do so. The City Parties will control any outdoor lighting with remote control timers, and will direct lights in a manner to avoid light pollution.

j. Promote Cycling. The City Parties will install bicycle racks near all play areas on the Property, including any soccer fields, baseball fields and playgrounds, and will work with the Chicago Department of Transportation to create a direct bike route to the park. Presently there are bike routes on California Avenue and 26th Street. The City Parties will explore the possibility of converting nearby abandoned railroad rights-of-way into recreational trails to further encourage park patrons to ride bicycles to the Property.

k. Community Involvement. The Park District will use its best efforts to form an Advisory Council comprised of local residents to help steer programs and activities in the park and to establish a stewardship program for the Property. Volunteer stewards will help maintain natural areas and participate in group work days and other outings and activities. The Park District will recruit volunteers through community outreach, and will supply mulch, rakes and other materials and equipment necessary for upkeep. Community involvement in the planning process and stewardship of natural areas will help foster respect and appreciation for

the park. Volunteers will be offered the opportunity to train in cooperation with local nonprofit organizations.

l. Use restrictions. The City Parties shall utilize no part of the Property for commercial or municipal purposes unrelated to its development and use as a park.

11. The Park District shall utilize an inclusive planning process designed to identify community needs and involve residents of the surrounding area while identifying sustainable development features that complement the planned uses of the park. Incorporating this input, the City Parties shall develop the Property as a public park with various recreational features in a manner that preserves the cover remedy to the fullest extent possible and results in significant environmental benefits. To the extent the City Parties decide to develop any of the following features on the Property, it shall utilize the sustainable development practices prescribed herein.

a. Park Trails. Any interior hard surface recreational trail constructed in the park shall be composed of a lakefront trail mix or other pervious material designed to maximize water filtration and to avoid runoff. This requirement shall not apply to interior paths or driveways intended for emergency and maintenance vehicles.

b. Soccer Fields. Any soccer fields constructed on the Property using artificial turf shall be made with the highest percentage of recycled content available on the market (giving due consideration to health and safety concerns, maintenance costs and durability), and the City Parties will recycle the turf at the end of its useful life.

c. Playground. Any playground equipment and soft surface base for playground equipment shall be made with the highest percentage of recycled content available on the market (giving due consideration to health and safety concerns, maintenance costs and durability). Any spray pool will include a motion-activated solenoid valve to conserve water and drainage will be managed pursuant to Paragraph 10.h.

d. Parking Lot. Any parking lot constructed on the Property will consist of porous material, include a bioswale for drainage, utilize recycled materials in tire stops, and will reserve at least ten percent of the spaces for hybrid, electric, and high-efficiency vehicles.

e. Natural Passive Area. The City Parties will consider creation of a natural passive area that includes native grasses, wildflowers, shrubs and trees, so as to provide an important habitat for local insects and migratory birds following the Lake Michigan flyway. Any such natural passive area must be managed to maintain a high level of native biodiversity for the Property, to the extent possible under modern conditions. The objective of this strategy is to promote a healthier environment, conserve native biodiversity, develop and maintain natural area aesthetics, and provide landscapes for nature-based recreation and education.

f. Buildings. Any building larger than a shed or storage facility constructed on the Property shall be certified by the U.S. Green Building Council as meeting the Silver (or higher) standard set forth in the Leadership in Energy and Environmental Design (LEED) for New Construction.

V. ACCESS/NOTICE TO SUCCESSORS IN INTEREST

12. Commencing upon the date that it acquires title to or a leasehold interest in the Property, the City Parties agree to provide to EPA, its authorized officers, employees, representatives, and all other persons performing response actions under EPA oversight, an irrevocable right of access at all reasonable times to the Property and to any other property to which access is required for the implementation of response actions at the Site, to the extent access to such other property is controlled by the City Parties, for the purposes of performing and overseeing response actions at the Site under federal law. EPA agrees to provide reasonable notice to the City Parties of the timing of response actions to be undertaken at the Property. Notwithstanding any provision of this Agreement, EPA retains all of its access authorities and rights, including enforcement authorities related thereto, under CERCLA, the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42

U.S.C. § 6901 *et seq.* ("RCRA"), and any other applicable statute or regulation, including any amendments thereto.

13. Within 15 Days after the date of acquisition of the Property, the City shall submit to EPA for review and approval a notice to be filed with the Office of the Cook County (Illinois) Recorder of Deeds, which shall provide notice to all successors-in-title that EPA selected a response action for the Property on March 7, 2005, and that a potentially responsible party has entered into an Administrative Settlement requiring implementation of the response action. Such notice shall identify the EPA Docket Number in which the Administrative Settlement was entered. The City shall record the notice within 30 Days of EPA's approval of the notice. The City shall provide EPA with a certified copy of the recorded notice within 10 Days of the recordation date.

14. The City Parties shall ensure that assignees, successors in interest, lessees, and sublessees of the Property shall provide the same access and cooperation, including any responsibilities of implementing, monitoring, or enforcing Institutional Controls. The City Parties shall ensure that a copy of this Agreement is provided to any current lessee or sublessee on the Property from and after the date of acquisition and shall ensure that any subsequent leases, subleases, assignments or transfers of the Property or an interest in the Property are consistent with this Section, Section XI (Parties Bound/Transfer of Covenant), and Section IV (Work to be Performed).

VI. DUE CARE/COOPERATION

15. The City Parties shall exercise due care at the Property with respect to the Existing Contamination and shall comply with the Institutional Controls and all applicable local, state, and federal laws and regulations. The City Parties recognize that the implementation of response actions at the Property may interfere with the City Parties' use of the Property, and may require closure of its operations or a part thereof. The City Parties agree to cooperate fully with EPA in the implementation of response actions at the Property and further agree not to

interfere with such response actions. EPA agrees, consistent with its responsibilities under applicable law, to use reasonable efforts to minimize any interference with the City Parties' operations by such entry and response. In the event the City Parties become aware of any action or occurrence which causes or threatens a release of Hazardous Substances at or from the Property that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, the City Parties shall immediately take all appropriate action to prevent, abate, or minimize such release or threat of release, and shall, in addition to complying with any applicable notification requirements under Section 103 of CERCLA, 42 U.S.C. §9603, or any other law, immediately notify EPA of such release or threatened release.

16. Absent emergency circumstances, the City Parties shall not remove the two-foot cover described in Paragraph 15 of the Administrative Settlement on any portion of the Property or dig, drill or excavate below such two-foot cover without prior notice to and approval by the EPA. This Paragraph does not prohibit the City Parties or park users from digging in any topsoil or other material placed on top of the two-foot cover.

VII. CERTIFICATION

17. By entering into this Agreement, the City Parties certify that to the best of their knowledge and belief they have fully and accurately disclosed to EPA all information known to the City Parties and all information in the possession or control of their current elected and/or appointed officials, the Chicago Department of Environment and the signatories to this Agreement which relates in any way to any Existing Contamination or any past or potential future release of Hazardous Substances at or from the Property and to its qualification for this Agreement. The City Parties also certify that to the best of their knowledge and belief they have not caused or contributed to a release or threat of release of Hazardous Substances at the Property. If the United States determines that information provided by the City Parties is not materially accurate and complete, the Agreement, within the sole discretion of the United

States, shall be null and void and the United States reserves all rights it may have.

VIII. UNITED STATES' COVENANT NOT TO SUE

18. Subject to the Reservation of Rights in Section IX of this Agreement, and conditional upon completion of the work specified in Section IV (Work to Be Performed) to the satisfaction of EPA, the United States covenants not to sue or take any other civil or administrative action against the City Parties for any and all civil liability for injunctive relief or reimbursement of response costs pursuant to Sections 106 or 107(a) of CERCLA, 42 U.S.C. §§ 9606 or 9607(a) with respect to the Existing Contamination.

IX. RESERVATION OF RIGHTS

19. The covenant not to sue set forth in Section VIII above does not pertain to any matters other than those expressly specified in Section VIII (United States' Covenant Not to Sue). The United States reserves and the Agreement is without prejudice to all rights against the City Parties with respect to all other matters, including but not limited to, the following:

a. claims based on a failure by the City Parties to meet a requirement of this Agreement, including but not limited to Section IV (Work to be Performed), Section V (Access/Notice to Successors in Interest), Section VI (Due Care/Cooperation), and Section XIII (Payment of Costs);

b. any liability resulting from ownership or operation of adjacent property, subject to the contiguous property defense in CERCLA Section 107(q), 42 U.S.C. § 9607(q);

c. any liability resulting from past or future releases of Hazardous Substances at or from the Property caused or contributed to by the City Parties, their successors, assignees, lessees or sublessees;

d. any liability resulting from exacerbation by the City Parties, their successors, assignees, lessees or sublessees, of Existing Contamination, unless resulting from activities approved by the EPA in accordance with Paragraph 16, or required or approved under the Administrative Settlement or otherwise ordered by EPA;

e. any liability resulting from the release or threat of release of Hazardous Substances at the Property after the effective date of this Agreement, not within the definition of Existing Contamination;

f. criminal liability;

g. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessment incurred by federal agencies other than EPA; and

h. liability for violations of local, state or federal law or regulations.

20. With respect to any claim or cause of action asserted by the United States, the City Parties shall bear the burden of proving that the claim or cause of action, or any part thereof, is attributable solely to Existing Contamination.

21. Nothing in this Agreement is intended as a release or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the United States may have against any person, firm, corporation or other entity not a party to this Agreement.

22. Nothing in this Agreement is intended to limit the right of EPA to undertake future response actions at the Property or to seek to compel parties other than the City Parties to perform or pay for response actions at the Property. Nothing in this Agreement shall in any way restrict or limit the nature or scope of response actions which may be taken or be required by EPA in exercising its authority under federal law. The City Parties acknowledge that they are acquiring and/or leasing Property where response actions may be required.

X. RESPONDENTS' COVENANT NOT TO SUE

23. In consideration of the United States' Covenant Not to Sue in Section VIII of this Agreement, the City Parties hereby covenant not to sue and not to assert any claims or causes of action against the United States, its authorized officers, employees, or representatives with respect to the Site or this Agreement, including but not limited to, any direct or indirect claims for

reimbursement from the Hazardous Substance Superfund established pursuant to the Internal Revenue Code, 26 U.S.C. § 9507, through CERCLA Sections 106(b)(2), 111, 112, 113, or any other provision of law, any claim against the United States, including any department, agency or instrumentality of the United States under CERCLA Sections 107 or 113 related to the Property, or any claims arising out of response activities at the Property, including claims based on EPA's oversight of such activities or approval of plans for such activities.

24. The City Parties reserve, and this Agreement is without prejudice to, actions against the United States based on negligent actions taken directly by the United States, not including oversight or approval of the City Parties' plans or activities, that are brought pursuant to any statute other than CERCLA or RCRA and for which the waiver of sovereign immunity is found in a statute other than CERCLA or RCRA. Nothing herein shall be deemed to constitute preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

XI. PARTIES BOUND/TRANSFER OF COVENANT

25. This Agreement shall apply to and be binding upon the United States and shall apply to and be binding upon the City Parties, their authorized officers, employees, and representatives. The United States' Covenant Not to Sue in Section VIII and Contribution Protection in Section XVII shall apply to the City Parties' officers, employees and representatives to the extent that the alleged liability of such officers, employees or representatives is based on their status and in their capacity as officers, employees or representatives of the City Parties, and not to the extent that the alleged liability arose independently of the alleged liability of the City Parties. Each signatory of a Party to this Agreement represents that he or she is fully authorized to enter into the terms and conditions of this Agreement and to legally bind such Party.

26. Notwithstanding any other provisions of this Agreement, all of the rights, benefits and obligations conferred upon the City Parties under this Agreement may be assigned or

transferred to any person with the prior written consent of the EPA in its sole discretion; provided, however, the City may transfer any interest in some or all of the Property to the Park District without the EPA's prior consent.

27. The City Parties agree to pay the reasonable costs incurred by EPA to review any subsequent requests for consent to assign or transfer the benefits conferred by this Agreement.

28. In the event of an assignment or transfer of the Property or an assignment or transfer of an interest in the Property, the assignor or transferor shall continue to be bound by all the terms and conditions, and subject to all the benefits, of this Agreement except as the EPA and the assignor or transferor agree otherwise and modify this Agreement, in writing, accordingly. Moreover, prior to or simultaneous with any assignment or transfer of the Property (other than from the City to the Park District), the assignee or transferee must consent in writing to be bound by the terms of this Agreement including but not limited to the certification requirement in Section VII of this Agreement in order for the Covenant Not to Sue in Section VIII to be available to that party. The Covenant Not to Sue in Section VIII shall not be effective with respect to any assignees or transferees (other than the Park District) who fail to provide such written consent to EPA.

XII. DOCUMENT RETENTION

29. The City Parties agree to retain and make available to EPA all final drafts of business and operating records, contracts, studies and investigations, and documents relating to "as built" development of the park in accordance with the sustainable development practices and features listed in Paragraphs 9, 10 and 11, for at least five years after development of the Property as a public park as required in Paragraph 9, unless a different period of years is otherwise agreed to in writing by the Parties. At the end of this period, the City Parties shall notify EPA of the location of such documents and shall provide EPA with an opportunity to copy any documents at the expense of EPA.

XIII. PAYMENT OF COSTS

30. If the City Parties fail to comply with the terms of this Agreement, including, but not limited to, the provisions of Section IV (Work to be Performed), they shall be liable for all litigation and other enforcement costs incurred by the United States to enforce this Agreement or otherwise obtain compliance.

XIV. NOTICES AND SUBMISSIONS

31. Unless otherwise specified herein, whenever notifications, submissions, or communications are required by this Agreement, they shall be made in writing and addressed as follows:

To the United States:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, DC 20044-7611
Re: DJ# 90-11-3-09384

and

Compliance Tracker
U.S. Environmental Protection Agency, Region 5 (AE-17J)
77 West Jackson Blvd.
Chicago, IL 60604

To EPA:

Karen Peaceman
Associate Regional Counsel
U.S. Environmental Protection Agency, Region V (C-14J)
77 West Jackson Blvd.
Chicago, IL 60604-3590
(312) 353-5751
(312) 886-7160 (fax)

and

Jena Sleboda
Remedial Project Manager
U.S. Environmental Protection Agency, Region V (SR-6J)
77 West Jackson Blvd.
Chicago, IL 60604-3590
(312) 353-1263
(312) 886-4071 (fax)

To the City of Chicago:

Commissioner of Environment
City of Chicago Department of Environment
30 North LaSalle Street, Suite 2500
Chicago, Illinois 60602-2575
(312) 744-7606

and

Lisa Misher
Assistant Corporation Counsel
City of Chicago Department of Law
121 North LaSalle Street, Suite 600
Chicago, Illinois 60602
(312) 742-3932
(312) 742-0277 (fax)

To the Chicago Park District:

General Superintendent and CEO
Chicago Park District
541 North Fairbanks Court
Chicago, Illinois 60611
(312) 742-4800
(312) 742-6098 (fax)

and

General Counsel
Chicago Park District
541 North Fairbanks Court
Chicago, Illinois 60611
(312) 742-4602
(312) 742-5316 (fax)

32. Any party may designate a different address by notice given as herein required. All notices, submissions and communications shall be deemed properly given: (a) three (3) working days after mailing by first class United States mail, postage prepaid, or (b) upon receipt by certified or registered mail, overnight courier, personal delivery or facsimile transmission.

XV. EFFECTIVE DATE

33. The effective date of this Agreement shall be the date upon which EPA issues written notice to the City Parties that EPA has fully executed the Agreement after review of and response to any public comments received pursuant to Section XIX.

XVI. TERMINATION

34. If any Party believes that any or all of the obligations under Section V (Access/Notice to Successors in Interest) are no longer necessary to ensure compliance with the requirements of the Agreement, that Party may request in writing that the other Party agree to terminate the provisions establishing such obligations; provided, however, that the provisions in question shall continue in force unless and until the Party requesting such termination receives written agreement from the other Party to terminate such provisions.

35. The City Parties' obligations under Paragraphs 9, 10 and 11 to maintain the Property as a public park shall terminate 50 years from the effective date of this Agreement unless a shorter period is agreed upon by all parties.

XVII. CONTRIBUTION PROTECTION

36. With regard to claims for contribution against the City Parties (including any claim based on the contention that the City Parties are not a bona fide prospective purchaser), the Parties hereto agree that this Agreement constitutes an administrative settlement for purposes of CERCLA Section 113(f)(2), 42 U.S.C. § 9613(f)(2), and that the City Parties are entitled to protection from contribution actions or claims as provided by CERCLA Section 113(f)(2), 42 U.S.C. § 9613(f)(2), or as may otherwise be provided by law, from the effective date of this Agreement for matters addressed in this Agreement. The matters addressed in this Agreement

are all response actions taken or to be taken and response costs incurred or to be incurred by the United States or any other person with respect to the Existing Contamination.

37. Notwithstanding the provisions of this Section, nothing in this Agreement shall be interpreted as extinguishing or altering the rights and obligations between the City Parties pursuant to any lease of the Property or intergovernmental agreement relating to the development and maintenance of the Property.

38. The City Parties agree that with respect to any suit or claim for contribution brought by either or both of them for matters related to this Agreement they will notify the United States in writing no later than 60 Days prior to the initiation of such suit or claim.

39. The City Parties also agree that with respect to any suit or claim for contribution brought against either or both of them for matters related to this Agreement they will notify the EPA in writing within 10 working days of service of the complaint on them.

XVIII. EXHIBITS

40. Exhibit 1 is a map depicting the general location of the Property.

41. Exhibit 2 is a map depicting the Property lines.

42. Exhibit 3 includes the Declarations of Restrictive Covenants recorded against the Property.

43. Exhibit 4 is the Administrative Settlement.

XIX. PUBLIC COMMENT

44. This Agreement shall be subject to a thirty-day public comment period, after which EPA may withhold or withdraw its consent to this Agreement if comments received disclose facts or considerations which indicate that this Agreement is inappropriate, improper or inadequate.

XX. MODIFICATION

45. The requirements of this Agreement may be modified in writing by mutual agreement of the Parties.

XXI. COUNTERPART ORIGINALS

46. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

(SIGNATURE PAGES FOLLOW)

HE UNDERSIGNED PARTY enters into this Agreement and Covenant Not to Sue in the matter of *2800 South Sacramento Avenue* (EPA Docket No. V-W-06-C-853).

IT IS SO AGREED:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

BY: _____ 3-20-09
BHARAT MATHUR Date
Acting Regional Administrator
United States Environmental
Protection Agency, Region 5
77 W. Jackson Blvd
Chicago, IL 60604

IT IS SO AGREED:

UNITED STATES DEPARTMENT OF JUSTICE

BY: _____ 2/25/09
W. BENJAMIN FISHEROW Date
Deputy Section Chief
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, DC 20044-7611

THE UNDERSIGNED PARTY enters into this Agreement and Covenant Not to Sue in the matter of *2800 South Sacramento Avenue* (EPA Docket No. V-W-06-C-853).

IT IS SO AGREED:

THE CITY OF CHICAGO

BY: _____ 1/20/09

Patricia A. Scudiero
Commissioner
Department of Zoning and Land Use Planning
121 North LaSalle Rm. 905
Chicago, Illinois 60602

BY: _____ 1/12/09

Suzanne Malec-McKenna Date
Commissioner
Department of Environment
City of Chicago
30 North La Salle Avenue
Suite 2500
Chicago, Illinois 60602

THE UNDERSIGNED PARTY enters into this Agreement and Covenant Not to Sue in the matter of *2800 South Sacramento Avenue* (EPA Docket No. V-W-06-C-853).

IT IS SO AGREED:

THE CHICAGO PARK DISTRICT

BY:

1/28/09

Timothy J. Mitchell
General Superintendent and CEO
Chicago Park District
541 North Fairbanks Court
Chicago, Illinois 60611

Date

Attest:

Kantrice Ogletree
Secretary Pro Tempore

EXHIBIT 1

Property Location Map

Site Location Map

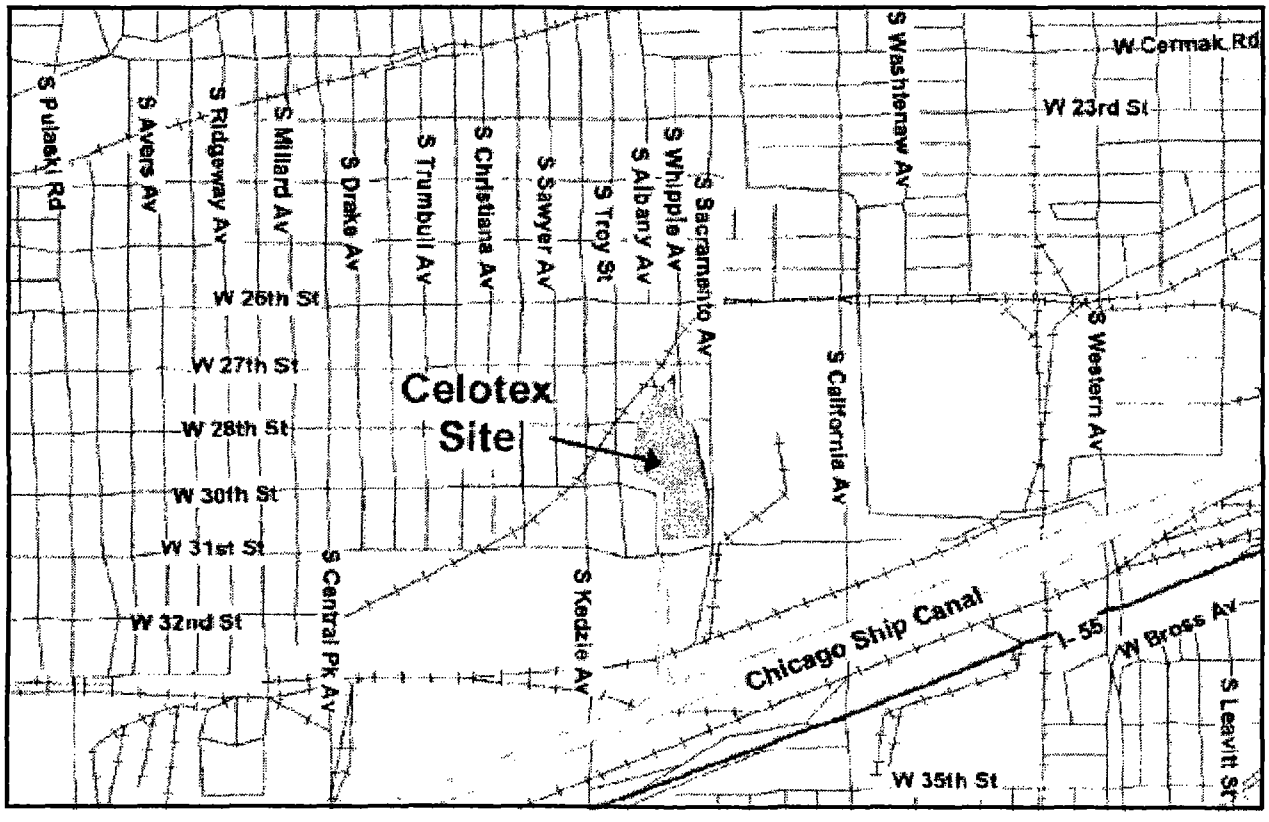
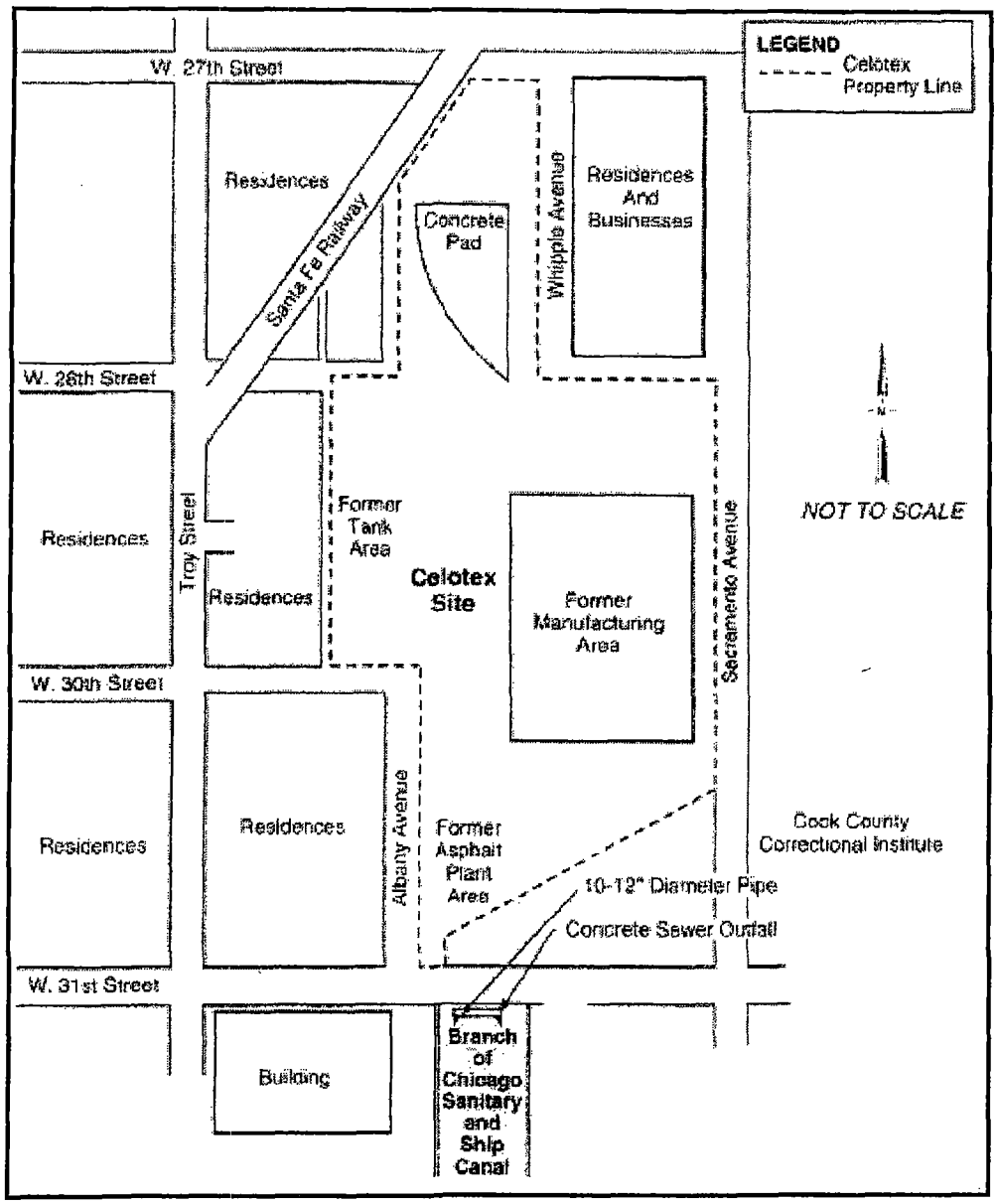


EXHIBIT 2

Property Map



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION V

IN THE MATTER OF:	)	
2800 South Sacramento Avenue	)	Docket No. V-W-06-C-853
	)	
Respondents: City of Chicago	)	
and Chicago Park District	)	
	)	
UNDER THE AUTHORITY OF THE	)	AGREEMENT AND COVENANT
COMPREHENSIVE ENVIRONMENTAL	)	NOT TO SUE CITY OF CHICAGO
RESPONSE, COMPENSATION, AND	)	OR CHICAGO PARK DISTRICT
LIABILITY ACT OF 1980, 42 U.S.C.	)	
§ 9601, et seq., as amended.	)	

EXHIBIT 3

Institutional Controls

PREPARED BY
AND RETURN TO:
H. Roderic Heard
Wildman Harrold Allen & Dixon
225 West Wacker Drive
Chicago, Illinois

Doc#: .0709910151 Fee: $40.00
Eugene "Gene" Moore RHSP Fee:$10.00
Cook County Recorder of Deeds
Date: 04/09/2007 04:11 PM Pg: 1 of 9

~~Return to:~~
And

William J. Anaya
Arnstein & Lehr LLP
120 South Riverside Plaza
Suite 1200
Chicago, Illinois 60606

DECLARATION OF RESTRICTIVE COVENANTS

This Declaration of Restrictive Covenants ("Declaration") is made by and between 2600 Sacramento Corp., an Illinois corporation ("Grantor") and Honeywell International Inc. ("Grantee") on this 16th day of March, 2007.

RECITALS:

A. Grantor is the owner of the real property located in the City of Chicago, State of Illinois, more particularly described on Exhibit A attached hereto and made a part hereof (the "Property")

B. The Property is part of the Celotex Superfund Site

C. The United States Environmental Protection Agency ("EPA") has, pursuant to Sections 104, 106(a), 107 and 122 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), entered into an Administrative Order on Consent ("AOC") with Grantee regarding the Property. The AOC, which bears Docket Number VW-'06-C-853, requires that certain limitations be placed on the use of the Property as therein described.

D. Grantor is not a party to the AOC, is not a Respondent in the administrative action referred to as Docket Number VW '06-C-853, and is not obligated by the terms of the AOC to perform any part of the remedial and removal actions therein stated. By this Declaration of Restrictive Covenants, Grantee assumes no additional liability, if any, to the United States of America or the State of Illinois or to any third party for the reported conditions identified in the AOC and Action Memorandum at the Property.

E. Grantor enters into this Declaration of Restrictive Restrictions following negotiations with Grantee, in order to assist in the compliance with the terms and conditions of the AOC and for no other purpose.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. Recitals. The foregoing Recitals shall not be interpreted as mere recitals, but shall be deemed part of this instrument and shall be enforceable hereunder.

2. Purpose. The purpose of this Declaration is to create restrictions in Grantor's real property rights, which will run with the land for only so long as necessary to facilitate the remediation of past environmental contamination described in the AOC as determined or modified by EPA pursuant to the terms herein provided, to protect human health and the environment by reducing the risk of exposure to contaminants of concern identified at the Celotex Superfund Site, and to provide for the long-term protection associated with the remediation; and accomplish these goals in a manner that allows the redevelopment and beneficial reuse of the Property as herein stated to the extent reasonably possible.

3. Grant. Grantor, hereby grants, bargains and sells to Grantee and its assigns the right to enforce said use restrictions for so long as necessary to satisfy the requirements of the AOC.

4. Restrictions. Grantor intends that the restrictions and covenants that follow will apply to the use of the Property, run with the land for the benefit of the Grantor, Grantee and the Third Party Beneficiaries (as herein defined), and shall be binding upon any subsequent owner, occupants or other person acquiring an interest in the Property and their authorized agents, employees, or persons acting under their direction and control and grants to each of them the right to enforce said restrictions for so long as required by said AOC. This Declaration of Restrictive Covenants may be recorded by either party to provide notice hereof pursuant to the Illinois Conveyances Act, 765 ILCS 5/.01 *et seq.*

4.1 No disturbance of cover. Grantor, its successors and assigns shall take no action nor allow any excavation, drilling, intrusion or other action that penetrates, pierces, or otherwise disturbs the integrity or maintenance of the two-foot gravel cover that will be installed on the Property pursuant to the AOC without the express written consent of EPA.

4.2 Land use. The Property shall not be used for residential purposes, including without limitation the use as any dwelling units and rooming units, mobile homes or factory built housing, camping facilities, hotels, or other unit constructed or installed for occupancy on a 24-hour basis. No change shall be made to the land use restrictions in this subparagraph except pursuant to the procedures in Paragraph 6, and only with the consent of Grantor, U.S. EPA and any other federal, state or local governmental agencies having jurisdiction over the proposed activities, and subject to applicable state and federal statutes, ordinances, rules and regulations in effect at such time.

5. Third Party Beneficiaries. The Grantor, on behalf of itself and its successors, transferees, and assigns, hereby agrees that the United States of America, acting by and through the United States Environmental Protection Agency ("U.S. EPA") and the State of Illinois, acting by and

through the Illinois Environmental Protection Agency ("Illinois EPA") and each of their successors and assigns, shall be third party beneficiaries ("Third Party Beneficiaries") of all the benefits and rights set out in the restrictions, covenants, exceptions, notifications, conditions and agreements herein, and that each of the Third Party Beneficiaries shall have the right to enforce the restrictions described herein as if they were a party hereto and without including the Grantee in any said action. No other rights in third parties are intended by this Declaration of Restrictive Covenants, and no other person or entity shall have any rights or authorities hereunder to enforce these restrictions, terms, conditions or obligations beyond the parties hereto, their successors, assigns, subsequent owners of the Property and the Third Party Beneficiaries.

6. Modification of Restrictions. The restrictive covenants contained herein shall continue for so long as necessary to accomplish the remedial and removal actions described in the AOC and Action Memorandum, and until U.S. EPA approves a modification or rescission of these restrictive covenants, with or without the approval of the other Third Party Beneficiaries. U.S. EPA may modify or terminate, in whole or in part, the foregoing restrictions or any portion thereof in writing, as authorized by law. The Grantor or any subsequent owner of the Property may seek to modify or terminate, in whole or in part, the restrictions set forth in subparagraphs 4.1- 4.2 by submitting to U.S. EPA a written application that identifies each such restriction to be terminated or modified, describes the terms of each proposed modification, and sets out any proposed revisions to the environmental easement/restrictive covenants in this Declaration. Each application for termination or modification of any restriction set forth in subparagraphs 4.1- 4.2 shall include a demonstration by the applicant that the requested termination or modification will not interfere with, impair or reduce:

a) the effectiveness of any measures undertaken pursuant to the AOC;
b) the long term protectiveness of the remediation; or
c) protection of human health and the environment.

If U.S. EPA makes a determination that an application satisfies the requirements of this paragraph, including the criteria specified in (a) through (c), U.S. EPA will notify the owner of the Property in writing. If U.S. EPA does not respond in writing within 90 days to an application to modify or terminate any restrictions, U.S. EPA shall be deemed to have denied owner's application. Any modification of these restrictive covenants shall be recorded with Recorder of Deeds, Cook County, Illinois.

7. NO PUBLIC ACCESS AND USE: No right of access or use by the general public or any third party to any portion of the Property is intended or conveyed by this instrument. The Property is Private Property for the use and benefit of Grantor, its successors and assigns and subsequent owners of the Property for all lawful purposes, subject to the restrictions and limitations and terms and conditions herein provided.

8. Notice Requirement for Transfer of Property. Grantor agrees to include in any instrument conveying any interest in any portion of the Property, including, but not limited to deeds, leases and mortgages, a notice in substantially the following form:

> NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO RESTRICTIVE COVENANTS CONTAINED IN A DECLARATION OF RESTRICTIVE COVENANTS MADE MARCH _____, 2007 AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, COOK COUNTY, ILLINOIS, ON _____ 2007, AS DOCUMENT NUMBER_____. THESE RIGHTS AND RESTRICTIONS RUN WITH THE LAND AND ARE ENFORCEABLE BY THE GRANTOR, GRANTEE AND THE THIRD BENEFICIARIES IDENTIFIED THEREIN.

9. Administrative Jurisdiction. The federal agency having administrative jurisdiction over the interests acquired by the United States by this instrument is the U.S. EPA, and any successor departments or agencies of the United States.

10. Enforcement. Each of the Grantor, Grantee or any Third Party Beneficiary, each acting independently and without the others, shall be entitled to enforce the terms of this instrument in a judicial action seeking specific performance or other applicable remedies at law or in equity. The right to so enforce the conditions and restrictions in this instrument are in addition to any other remedies that may be available, including, but not limited to, remedies under CERCLA. Whether to enforce the terms of this instrument or to participate in an enforcement action brought by any of the others shall be at the sole discretion of the Grantor, Grantee and/or the Third Party Beneficiaries and any forbearance, delay or omission to exercise any of their rights under this instrument in the event of a breach of any term of this Declaration shall not be deemed a waiver by any such party of any such term, or any other term, or any rights of any of the Grantor, Grantee or Third Party Beneficiaries under this instrument. These covenants shall not inure to the benefit of the public in general.

11. Reservation of Defenses. Nothing in this instrument shall be construed to enlarge the jurisdiction of federal courts, to create subject matter jurisdiction to adjudicate any claims against U.S. EPA, or otherwise to operate as a waiver of any sovereign immunity of the United States, and the United States expressly reserves all rights and defenses it may have in connection with any action initiated pursuant to this instrument. Nothing herein shall be construed as Grantor's waiver of any rights or defenses available at law, in equity, provided by any statute or by any state and federal constitution.

12. Notices. Any notice, demand, request, consent, approval, or communication that is desired or required to be given pursuant to this Declaration shall be in writing and shall either be served personally or sent by first class mail, postage prepaid or by nationally recognized overnight courier service addressed as provided below and shall be deemed given on the day delivered (or refused), if delivered by hand, five (5) days after being sent by first class mail or , the next business day after being sent by overnight courier:

Grantor:
2600 Sacramento Corp
4222 South Knox Avenue
Chicago, Illinois 60632

With a copy to:

William J. Anaya
Arnstein & Lehr LLP
120 South Riverside Plaza
Suite 1200
Chicago, Illinois 60606-3109

Grantee:

Environmental Counsel
Honeywell International Inc.
101 Columbia Road
Morristown, New Jersey 07962

Third Party Beneficiaries:

United States Environmental Protection Agency
Superfund Division
77 W. Jackson Blvd.
Mail Code: SR-6J
Chicago IL 60604-3590

Illinois Environmental Protection Agency
Federal Site Remediation Section
Division of Remediation Management
1021 N. Grand Avenue East
Box 19276
Springfield, IL 62794-9276

13. Miscellaneous.

13.1 Controlling law: The interpretation and performance of this Declaration shall be governed by the laws of the United States as to the obligations referred to in the AOC, and to the laws and regulations of the State of Illinois for all other purposes hereunder (without reference to choice of laws principles thereof). The right to enforce the conditions and restrictions in this

instrument are in addition to other rights and remedies that may be available, including, but not limited to, administrative and judicial remedies under CERCLA.

13.2 Liberal construction: Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed to affect the purpose of this instrument and the policy and purpose of CERCLA and the land use restrictions and prospective use limitations of the State of Illinois. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

13.3 Severability: If any provision of this instrument or the application of it to any person or circumstance is found to be invalid, the remainder of the provisions of this instrument, or the application of such provisions to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.

13.4 Entire Agreement: This instrument supersedes all prior discussions, negotiations, understandings, or agreements relating to the matters addressed herein, all of which are merged herein; provided, however, that nothing herein shall be construed to impact or nullify the terms and conditions of the Indemnity Agreement between Grantor and Grantee as successor, dated March 4, 2002.

13.5 Successors: The covenants, terms, conditions, and restrictions of this instrument shall be binding upon, and inure to the benefit of Grantor and Grantee and their agents, successors, and assigns and any subsequent owners, occupants or other persons acquiring an interest in the Property and their respective agents, successors and assigns. The rights, but not the obligations or authorities, of the U.S. EPA are freely assignable to any public entity, subject to the notice to the Grantor, its successors and assigns, as their interests appear in the public title records kept and maintained by the Cook County, Illinois, Recorder of Deeds.

13.6 Captions: The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

IN WITNESS WHEREOF, the parties have caused this Declaration of Restrictive Covenants to be signed in its name.

2600 Sacramento Corp.,
an Illinois corporation, Grantor

By: _____
Name: Richard Urso, its President

Honeywell International, Inc., Grantee

By: _____
Name: Troy J. Kennedy
Title: Remediation Portfolio

STATE OF Illinois)
COUNTY OF COOK)

On this 26th day of March, 2007, before me, the undersigned, a Notary Public in and for the State of Illinois, duly commissioned and sworn, personally appeared Richard Ruso, known to be the President of 2600 Sacramento Corp., an Illinois corporation, the entity that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said entity, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute said instrument.

Witness my hand and official seal hereto affixed the day and year written above.

OFFICIAL SEAL
MARY ANN KOTIS
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 4-18-2008

Notary Public in and for the
State of Illinois

My Commission Expires: 4/18/08.

STATE OF New Jersey)
COUNTY OF Mercer)

On this 2 day of April, 2007, before me, the undersigned, a Notary Public in and for the State of NJ, duly commissioned and sworn, personally appeared Thos Kenney, known to be the _____ of _____, the entity that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said entity, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute said instrument.

Witness my hand and official seal hereto affixed the day and year written above.

Notary Public in and for the
State of NJ

My Commission Expires: _____.

PATRICIA SHEA
Notary Public - New Jersey
My Commission Expires April 19, 2009

EXHIBIT A

PROPERTY DESCRIPTION

LEGAL DESCRIPTION:

THAT PART OF BLOCKS 13, 15, 16, 17, 18, 24 AND 25 OF SUPERIOR COURT COMMISSIONERS' PARTITION OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 25, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE WEST LINE OF SOUTH SACRAMENTO AVENUE AND THE SOUTH LINE OF WEST 28TH STREET, AS OPENED BY THE SUPERIOR COURT OF COOK COUNTY; THENCE SOUTH 88 DEGREES 23 MINUTES 59 SECONDS WEST ALONG SAID SOUTH LINE, 333.64 FEET TO A POINT ON THE WEST LINE OF SOUTH WHIPPLE STREET, AS OPENED BY THE SUPERIOR COURT OF COOK COUNTY; THENCE NORTH 1 DEGREE 42 MINUTES 25 SECONDS WEST, ALONG SAID WEST LINE, 645.80 FEET TO A POINT ON THE SOUTH LINE OF WEST 27TH STREET, AS OPENED BY THE SUPERIOR COURT OF COOK COUNTY; THENCE SOUTH 88 DEGREES 31 MINUTES 59 SECONDS WEST, ,ALONG SAID SOUTH LINE 143.23 FEET TO A CORNER OF SAID BLOCK 13; THENCE SOUTH 33 DEGREES 39 MINUTES 32 SECONDS WEST, ALONG THE NORTHWEST LINE OF SAID BLOCK 13, 271.68 FEET TO A POINT ON THE WEST LINE OF SAID BLOCK 13; THENCE SOUTH 1 DEGREE 42 MINUTES 22 SECONDS EAST, ALONG THE WEST LINE OF SAID BLOCK 13, 407.29 FEET TO THE SOUTHWEST CORNER OF SAID BLOCK 13; THENCE SOUTH 88 DEGREES 23 MINUTES 59 SECONDS WEST, ALONG THE NORTH LINE OF SAID BLOCK 17, 158.74 FEET TO A POINT ON THE EAST LINE OF A PUBLIC ALLEY, AS OPENED BY THE SUPERIOR COURT OF COOK COUNTY; THENCE SOUTH 1 DEGREE 42 MINUTES 20 SECONDS EAST, ALONG SAID EAST LINE, 629.64 FEET TO A POINT ON THE NORTH LINE OF THE WEST 30TH STREET, AS OPENED BY THE SUPERIOR COURT OF COOK COUNTY; THENCE NORTH 88 DEGREES 16 MINUTES 55 SECONDS EAST, ALONG SAID NORTH LINE, 191.75 FEET TO A POINT ON THE EAST LINE OF SOUTH ALBANY AVENUE, AS DEDICATED BY DOCUMENT NO. 4762549; THENCE SOUTH 1 DEGREE 42 MINUTES 22 SECONDS EAST, ALONG SAID EAST LINE 260.62 FEET TO A CORNER OF LAND DESCRIBED IN DOCUMENT NO. 0010784387; THENCE NORTH 88 DEGREES 6 MINUTES 19 SECONDS EAST, ALONG THE SOUTH LINE OF SAID LAND, 71.13 FEET TO A CORNER OF SAID LAND; THENCE NORTH 1 DEGREE 53 MINUTES 51 SECONDS WEST, 15.50 FEET TO A CORNER OF SAID LAND; THENCE NORTH 88 DEGREES 6 MINUTES 9 SECONDS EAST, 97.70 FEET TO A CORNER OF SAID LAND; THENCE SOUTH 18 DEGREES 3 MINUTES 51 SECONDS EAST, 92.65 TO A CORNER OF SAID LAND; THENCE NORTH 82 DEGREES 3 MINUTES 9 SECONDS EAST, 67.09 FEET TO A CORNER OF SAID LAND; THENCE SOUTH

32 DEGREES 58 MINUTES 51 SECONDS EAST, 117.30 FEET TO A POINT ON THE SOUTHEAST LINE OF SAID DESCRIBED LAND, SAID SOUTHEAST LINE BEING DESCRIBED AS DRAWN FROM A POINT ON THE EAST LINE OF SAID BLOCK 25, 422.60 FEET NORTH OF THE SOUTHEAST CORNER OF SAID BLOCK 25, TO A POINT THAT IS 83.00 FEET EAST OF THE WEST LINE OF SAID BLOCK 24 AND 133.00 FEET NORTH OF THE SOUTH LINE OF SAID BLOCK 24; THENCE NORTH 61 DEGREES 48 MINUTES 56 SECONDS EAST, ALONG SAID SOUTHEAST LINE, 311.24 FEET TO A POINT ON THE WEST LINE OF AFORESAID SOUTH SACRAMENTO AVENUE; THENCE NORTH 1 DEGREE 42 MINUTES 3 SECONDS WEST, ALONG SAID WEST LINE, 898.79 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

TAX NOS.: 16-25-309-012, 16-25-309-015, 16-25-309-016 AND 16-25-309-017

ADDRESS: 2800 S. SACRAMENTO AVENUE, CHICAGO, IL

0703018099

Doc#: 0703018099 Fee: $40.00
Eugene "Gene" Moore RHSP Fee:$10.00
Cook County Recorder of Deeds
Date: 01/30/2007 04:00 PM Pg: 1 of 9

Return to:

William T. Dwyer, Jr.
O'Rourke, Hogan, Fowler & Dwyer
10 South LaSalle Street
Suite 2900
Chicago, IL 60603

DECLARATION OF RESTRICTIVE COVENANTS

This Declaration of Restrictive Covenants ("Declaration") is made by and between Monarch Asphalt Co. ("Grantor") and Honeywell International Inc. ("Grantee") on this 19 day of December, 2006.

RECITALS:

A. Grantor is the owner of the real property located in the City of Chicago, State of Illinois, more particularly described on Exhibit A attached hereto and made a part hereof (the "Property").

B. The Property is part of the Celotex Superfund Site (the "Site").

C. The United States Environmental Protection Agency ("EPA") has, pursuant to Sections 104, 106(a), 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), entered into an Administrative Order on Consent ("AOC") with Grantee regarding the Property. The AOC, which bears Docket Number VW-'06-C-853, requires that certain limitations be placed on the use of the Property.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree ass follows:

1. Purpose. The purpose of this Declaration is to create restrictions in Grantor's real property rights, which will run with the land, to: facilitate the remediation of past environmental contamination; protect human health and the environment by reducing the risk of exposure to contaminants; provide for the long-term protectiveness of the remediation; and accomplish these goals in a manner that allows the redevelopment and beneficial reuse of the Property to the extent reasonably possible.

2. Grant. Grantor, on behalf of itself, its successors and assigns, does hereby covenant and declare that the Property shall be subject to the restrictions on use set forth below, and does give, grant and covey to the Grantee and its assigns with general warranties of title the perpetual right to enforce said use restrictions;

3. Restrictions. Grantor intends that the restrictions and covenants that follow will apply to the use of the Property, run with the land for the benefit of the Grantee and the Third Party Beneficiaries (as herein defined), and be binding upon any subsequent owner, occupants or other person acquiring an interest in the Property and their authorized agents, employees, or persons acting under their direction and control and grants to each of them a perpetual right to enforce said restrictions.

3.1 No disturbance of cover. No excavation, drilling, intrusion or other action shall be taken which penetrates, pierces, or otherwise violates or disturbs the integrity or maintenance of the two-foot gravel cover that currently lies on the Property or that will be installed on the Property pursuant to the AOC.

3.2 Land use. The Property shall not be used for residential purposes, including any dwelling units and rooming units, mobile homes or factory built housing, camping facilities, hotels, or other unit constructed or installed for occupancy on a 24-hour basis. No change shall be made to the land use restrictions in this subparagraph except pursuant to the procedures in Paragraph 5, with the consent of any other federal, state or local governmental agencies having jurisdiction over the proposed activities, and subject to applicable statutes, ordinances, rules and regulations in effect at such time.

4. Third Party Beneficiaries. The Grantor, on behalf of itself and its successors, transferees, and assigns, hereby agrees that the United States of America, acting by and through the United States Department of Environmental Protection Agency ("U.S. EPA") and the State of Illinois, acting by and through the Illinois Department of Environmental Protection Agency ("Illinois EPA") and each of their successors and assigns, shall be third party beneficiaries ("Third Party Beneficiaries") of all the benefits and rights set out in the restrictions, covenants, exceptions, notifications, conditions and agreements herein, and that each of the Third Party Beneficiaries shall have the right to enforce the restrictions described herein as if they were a party hereto and without including the Grantee in any said action.

5. Modification of Restrictions. The restrictive covenants contained herein shall continue in perpetuity unless and until U.S. EPA approves a modification or rescission of these restrictive covenants. U.S. EPA may modify or terminate, in whole or in part, this Declaration or any portion thereof in writing, as authorized by law. The Grantor or any subsequent owner of the Property may seek to modify or terminate, in whole or in part, the restrictions set forth in subparagraphs 3.1- 3.2 by submitting to U.S. EPA a written application that identifies each such restriction to be terminated or modified, describes the terms of each proposed modification, and sets out any proposed revisions to the environmental easement/restrictive covenants in this Declaration. Each application for termination or modification of any restriction set forth in

subparagraphs 3.1- 3.2 shall include a demonstration by the owner of the Property that the requested termination or modification will not interfere with, impair or reduce:

a) the effectiveness of any measures undertaken pursuant to the AOC;
b) the long term protectiveness of the remediation; or
c) protection of human health and the environment.

If U.S. EPA makes a determination that an application satisfies the requirements of this paragraph, including the criteria specified in (a) through (c), U.S. EPA will notify the owner of the Property in writing. If U.S. EPA does not respond in writing within 90 days to an application to modify or terminate any restrictions, U.S. EPA shall be deemed to have denied owner's application. Any modification of these restrictive covenants shall be recorded with Recorder of Deeds, Cook County, Illinois.

6. NO PUBLIC ACCESS AND USE: No right of access or use by the general public to any portion of the Property is intended or conveyed by this instrument.

7. Notice Requirement for Transfer of Property. Grantor agrees to include in any instrument conveying any interest in any portion of the Property, including, but not limited to deeds, leases and mortgages, a notice in substantially the following form:

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO RESTRICTIVE COVENANTS CONTAINED IN A DECLARATION OF RESTRICTIVE COVENANTS MADE [INSERT DATE] AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, _____ COUNTY, ILLINOIS, ON _____ 2006, IN BOOK ___, PAGE __. THESE RIGHTS AND RESTRICTIONS RUN WITH THE LAND AND ARE ENFORCEABLE BY THE GRANTOR, GRANTEE AND THE THIRD BENEFICIARIES IDENTIFIED THEREIN.

8. Administrative Jurisdiction. The federal agency having administrative jurisdiction over the interests acquired by the United States by this instrument is the U.S. EPA, and any successor departments or agencies of the United States.

9. Enforcement. Each of the Grantor, Grantee or any Third Party Beneficiary, each acting independently and without the others, shall be entitled to enforce the terms of this instrument in a judicial action seeking specific performance or other applicable remedies at law or in equity. The right to so enforce the conditions and restrictions in this instrument are in addition to any other remedies that may be available, including, but not limited to, remedies under CERCLA. Whether to enforce the terms of this instrument or to participate in an enforcement action brought by any of the others shall be at the sole discretion of the Grantor, Grantee and/or the Third Party Beneficiaries and any forbearance, delay or omission to exercise any of their rights under this instrument in the event of a breach of any term of this Declaration shall not be deemed a waiver by any such party of any such term, or any other term, or any rights of any of the Grantor, Grantee or Third Party Beneficiaries under this instrument. These

covenants shall inure to the benefit of the public in general and the Property, and are enforceable by the Grantor, Grantee and/or the Third Party Beneficiaries.

10. Reservation of Defenses. Nothing in this instrument shall be construed to enlarge the jurisdiction of federal courts, to create subject matter jurisdiction to adjudicate any claims against U.S. EPA, or otherwise to operate as a waiver of any sovereign immunity of the United States, and the United States expressly reserves all rights and defenses it may have in connection with any action initiated pursuant to this instrument.

11. Notices. Any notice, demand, request, consent, approval, or communication that is desired or required to be given pursuant to this Declaration shall be in writing and shall either be served personally or sent by first class mail, postage prepaid or by nationally recognized overnight courier service addressed as provided below and shall be deemed given on the day delivered (or refused), if delivered by hand, five (5) days after being sent by first class mail or , the next business day after being sent by overnight courier:

Grantor:

Grantee:

Environmental Counsel
Honeywell International Inc.
101 Columbia Road
Morristown, New Jersey 07962

Third Party Beneficiaries:

United States Environmental Protection Agency
Superfund Division
77 W. Jackson Blvd.
Mail Code: SR-6J
Chicago IL 60604-3590

Illinois Environmental Protection Agency
Federal Site Remediation Section
Division of Remediation Management
1021 N. Grand Avenue East
Box 19276
Springfield, IL 62794-9276

12. Miscellaneous.

12.1 Controlling law: The interpretation and performance of this Declaration shall be governed by the laws of the United States and, to the extent the same do not apply, the State of Illinois (without reference to choice of laws principles thereof). The right to enforce the conditions and restrictions in this instrument are in addition to other rights and remedies that may be available, including, but not limited to, administrative and judicial remedies under CERCLA.

12.2 Liberal construction: Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed to effect the purpose of this instrument and the policy and purpose of CERCLA. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

12.3 Severability: If any provision of this instrument or the application of it to any person or circumstance is found to be invalid, the remainder of the provisions of this instrument, or the application of such provisions to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.

12.4 Entire Agreement: This instrument supersedes all prior discussions, negotiations, understandings, or agreements relating thereto, all of which are merged herein.

12.5 Successors: The covenants, terms, conditions, and restrictions of this instrument shall be binding upon, and inure to the benefit of Grantor and its agents, successors, and assigns and any subsequent owners, occupants or other persons acquiring an interest in the Property and their respective agents, successors and assigns. The covenants, terms, conditions, and restrictions of this instrument shall continue as a servitude running in perpetuity with the Property. The rights of the U.S. EPA are freely assignable to any public entity, subject to the notice provisions hereof.

12.6 Captions: The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

12.7 Counterparts. This Declaration may be executed in multiple counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Declaration of Restrictive Covenants to be signed in its name.

MONARCH ASPHALT COMPANY

By: _____
Name: Samuel S. Patwardhan, Jr.
Title: President

HONEYWELL INTERNATIONAL INC.

By: _____
Name: TROY J. KENNEDY
Title: REMEDIATION PORTFOLIO DIRECTOR

STATE OF Illinois)
) ss
COUNTY OF Cook)

On this 23rd day of Oct., 2006, before me, the undersigned, a Notary Public in and for the State of Illinois, duly commissioned and sworn, personally appeared Samuel S. Palumbo, Jr., known to be the President of Monarch Asphalt Co., the entity that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said entity, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute said instrument.

Witness my hand and official seal hereto affixed the day and year written above.

"OFFICIAL SEAL"
Deborah Arndt
Notary Public, State of Illinois
My Commission Expires 6/23/2007

Deborah Arndt
Notary Public in and for the
State of Illinois

My Commission Expires: 6-23-07

STATE OF New Jersey)
) ss
COUNTY OF Passaic)

On this 19th day of Dec., 2006, before me, the undersigned, a Notary Public in and for the State of New Jersey, duly commissioned and sworn, personally appeared Troy J. Kennedy, known to be the Benefits Portfolio Dir. of Honeywell Int'l Inc., the entity that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said entity, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute said instrument.

Witness my hand and official seal hereto affixed the day and year written above.

CHERYL L. TOLES
State of New Jersey
County of Passaic
Expiration Date: 10/27/2010
ID # 2336504

Cheryl L. Toles
Notary Public in and for the
State of New Jersey

My Commission Expires: 10/27/10

EXHIBIT A

PROPERTY DESCRIPTION

THAT PART OF BLOCKS 24 AND 25 IN THE SUPERIOR COURT COMMISSIONER'S PARTITION OF THE WEST HALF OF THE SOUTH WEST QUARTER OF SECTION 25, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS DESCRIBED AS FOLLOWS:

NOTE: THE WEST LINE OF SAID BLOCK 24 IN ASSUMED AS "DUE NORTH-SOUTH" FOR THE FOLLOWING COURSES. BEGINNING AT A POINT IN THE EAST LINE OF THE WEST 33 FEET OF SAID BLOCK 24, SAID POINT BEING 260.62 FEET SOUTH OF THE NORTH LINE OF 30TH STREET, SAID NORTH LINE BEING 33 FEET NORTH OF THE NORTH LINE OF BLOCK 23 IN SAID PARTITION; THENCE SOUTH 89 DEGREES 55 MINUTES EAST ALONG A LINE THAT IS PARALLEL WITH THE SOUTH LINE OF 28TH STREET, 71.18 FEET; THENCE NORTH 0 DEGREES 05 MINUTES EAST, 15.50 FEET; THENCE SOUTH 89 DEGREES 55 MINUTES EAST, 97.70 FEET; THENCE SOUTH 16 DEGREES 05 MINUTES EAST, 92.65 FEET; THENCE NORTH 84 DEGREES 02 MINUTES EAST, 67.09 FEET; THENCE SOUTH 31 DEGREES 44 MINUTES 30 SECONDS EAST, 117.30 FEET TO POINT (A) IN THE FOLLOWING DESCRIBED DIAGONAL LINE; BEGINNING AT A POINT THAT IS 83 FEET EAST OF THE WEST LINE AND 133 FEET NORTH OF EH SOUTH LINE OF SAID BLOCK 24; THENCE NORTH 63 DEGREES 33 MINUTES 40 SECONDS EAST TO A POINT IN THE EAST LINE OF SAID BLOCK 25, SAID POINT BEING 422.06 FEET NORTH OF THE SOUTH EAST CORNER OF SAID BLOCK; SAID POINT (A) BEING 311.24 FEET SOUTHWESTERLY OF A LINE THAT IS 33 FEET WEST OF THE EAST LINE OF SAID BLOCK 25. THENCE SOUTH 63 DEGREES 33 MINUTES 40 SECONDS WEST ON SAID DIAGONAL LINE, 304.57 FEET TO THE EAST LINE OF THE WEST 83 FEET OF SAID BLOCK 24; THENCE DUE SOUTH ON SAID LINE, 100 FEET TO THE NORTH LINE OF THE SOUTH 33 FEET OF SAID BLOCK 24; THENCE SOUTH 89 DEGREES 51 MINUTES WEST ON SAID LINE, 50 FEET TO A POINT IN THE EAST LINE OF THE WEST 33 FEET OF SAID BLOCK; THENCE DUE NORTH ON SAID LINE, 401.80 FEET TO THE PLACE OF BEGINNING.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION V

IN THE MATTER OF: 2800 South Sacramento Avenue Respondents: City of Chicago and Chicago Park District UNDER THE AUTHORITY OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980, 42 U.S.C. § 9601, et seq., as amended.	)	Docket No. V-W-06-C-853 AGREEMENT AND COVENANT NOT TO SUE CITY OF CHICAGO OR CHICAGO PARK DISTRICT

EXHIBIT 4

Administrative Settlement

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:

2800 South Sacramento
Chicago, Il

Respondent:

Honeywell International Inc.

ADMINISTRATIVE SETTLEMENT
AGREEMENT AND ORDER ON
CONSENT FOR REMOVAL ACTION

Docket No. V-W- '06-C-853

Proceeding Under Sections 104, 106(a), 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §§ 9604, 9606(a), 9607 and 9622

TABLE OF CONTENTS

I. JURISDICTION AND GENERAL PROVISIONS

1. This Administrative Settlement Agreement and Order on Consent ("Settlement Agreement") is entered into voluntarily by the United States Environmental Protection Agency ("U.S. EPA") and Respondent. This Settlement Agreement provides for the performance of removal actions by Respondent at or in connection with the property located at 2800 South Sacramento in Chicago Il, the "Main Site", and the reimbursement of certain response costs incurred by the United States at the Main Site and certain residential areas ("Residential Areas").

2. This Settlement Agreement is issued under the authority vested in the President of the United States by Sections 104, 106(a), 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9604, 9606(a), 9607 and 9622, as amended ("CERCLA"). This authority has been delegated to the Administrator of the U.S. EPA by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, and further delegated to the Regional Administrators by U.S. EPA Delegation Nos. 14-14-A, 14-14-C and 14-14-D, and to the Director, Superfund Division, Region 5, by Regional Delegation Nos. 14-14-A, 14-14-C and 14-14-D.

3. U.S. EPA has notified the State of Illinois (the "State") of this action pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

4. U.S. EPA and Respondent recognize that this Settlement Agreement has been negotiated in good faith and that the actions undertaken by Respondent in accordance with this Settlement Agreement do not constitute an admission of any liability. Respondent does not admit, and retains the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Settlement Agreement, the validity of the findings of facts, conclusions of law, and determinations in Sections IV and V of this Settlement Agreement. Respondent agrees to comply with and be bound by the terms of this Settlement Agreement and further agrees that it will not contest the basis or validity of this Settlement Agreement or its terms.

II. PARTIES BOUND

5. This Settlement Agreement applies to and is binding upon U.S. EPA and upon Respondent and its successors and assigns. Any change in ownership or corporate status of a Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter such Respondent's responsibilities under this Settlement Agreement.

6. Respondent shall ensure that its contractors, subcontractors, and representatives comply with this Settlement Agreement. Respondent shall be responsible for any noncompliance with this Settlement Agreement.

III. DEFINITIONS

7. Unless otherwise expressly provided herein, terms used in this Settlement Agreement which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Settlement Agreement or in the appendices attached hereto and incorporated hereunder, the following definitions shall apply:

a. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601, *et seq.*

b. "Day" shall mean a calendar day. In computing any period of time under this Settlement Agreement, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the close of business the next working day.

c. "Effective Date" shall be the effective date of this Settlement Agreement as provided in Section XXX.

d. "Future Response Costs" shall mean all costs, including direct and indirect costs, that the United States incurs in reviewing or developing plans, reports and other items pursuant to this Settlement Agreement, verifying the Work, or otherwise implementing, overseeing, or enforcing this Settlement Agreement. Future Response Costs shall also include all costs, including direct and indirect costs, incurred in connection with the Main Site or Residential Areas (as described in the March 7, 2005 Action Memorandum) after March 31, 2005.

e. "Interest" shall mean interest at the rate specified for interest on investments of the U.S. EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

f. "National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

g. "Settlement Agreement" shall mean this Administrative Settlement Agreement and Order on Consent and all appendices attached hereto (listed in Section XXXI). In the event of conflict between this Settlement Agreement and any appendix, this Settlement Agreement shall control.

h. "Parties" shall mean U.S. EPA and Respondent.

i. "Past Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States paid at or in connection with

the Main Site, or in connection with the Residential Areas, between January 1, 1989 and March 30, 2005.

j. "RCRA" shall mean the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901, *et seq.* (also known as the Resource Conservation and Recovery Act).

k. "Respondents" shall mean Honeywell.

l. "Main Site" shall mean the 2800 South Sacramento Superfund Site, also known as the Celotex Superfund Site, encompassing approximately 24 acres, located at 2800 South Sacramento in Chicago, Illinois. The Main Site does not include the Residential Areas, which will be the subject of a separate Administrative Settlement Agreement and Order on Consent. The Main Site is depicted generally on the map attached as Appendix A.

m. "Residential Areas" means those residential areas where PAH contamination from the Main Site has come to be located.

n. "State" shall mean the State of Illinois.

o. "Statement of Work" or "SOW" shall mean the statement of work for implementation of the response, as set forth in Appendix B to this Order, and any modifications made thereto.

p. "U.S. EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

q. "Waste Material" shall mean 1) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); 2) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); 3) any "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27); and 4) any "hazardous material" under Title 35 IAC Part 721.

r. "Work" shall mean all activities Respondent is required to perform under this Settlement Agreement.

IV. FINDINGS OF FACT

8. Based on available information, including the Administrative Record in this matter, U.S. EPA hereby finds that:

a. The Main Site ("Site") consists of property owned by the 2600 Sacramento Corporation ("Sacramento")(consisting of approximately 22 acres) with an address of 2800 S. Sacramento Ave. and property currently owned by Monarch Asphalt Company ("Monarch") of approximately 2 acres formerly having an address of 3033 S. Albany Ave.

b. Honeywell's predecessors -- AlliedSignal Inc., Allied Chemical and Dye Corporation, Barrett Manufacturing Co., and Barrett Paving Materials -- as well as Celotex Corporation-- owned and operated facilities on the Main Site that included at different times coal tar distillation to produce refined tars, pitch, oil, creosote, naphthalene, coal tar paints, enamels, pipe coating, and protective coating; manufacture of roofing shingles; an asphalt concrete mixing plant; and a sealer plant at which clay and tar were blended to produce driveway sealer. The coal tar distillation was conducted from 1911 to 1970. The manufacture of roofing shingles was conducted from 1911 to 1967. The asphalt mixing was conducted by AlliedSignal from the 1940s until 1979 when that portion of the Main Site was sold to Barrett Paving Materials, Inc. The sealer plant operated from the early 1970s until 1977. The Main Site, other than the asphalt mixing plant, was sold to Celotex (a wholly owned subsidiary of Jim Walter Corporation) in several transactions from 1967 through 1979.

c. Celotex manufactured bituminous based roofing products at the facility from the date purchased from Allied Chemical and Dye Corp. in 1967 until the facility was closed in 1982. Celotex dismantled the manufacturing facilities in 1991-1993. From 1993-1994 Celotex imported soil and placed it over the 22 acres of the Main Site which it owned, except for that portion covered by concrete slabs. The 22-acre portion of the Main Site previously owned by Celotex is currently owned by 2600 Sacramento Corporation.

d. Barrett Paving Materials owned and operated the asphalt mixing plant from 1979 until it was sold to Monarch Asphalt.

e. Monarch Asphalt Company dismantled the asphalt mixing plant.

f. In 1991 and 1992 the Illinois Environmental Protection Agency ("IEPA") conducted inspections and sampling at the Main Site. The results of such inspections and sampling are recorded and presented in the following documents prepared by IEPA: CERCLA Screening Site Inspection Report, CERCLA Screening Site Inspection Analytical Results, CERCLA Expanded Site Inspection Report, and CERCLA Expanded Site Inspection Analytical Results. IEPA inspectors observed openings in the fence around the Main Site in several locations, and signs of people present on the Main Site. IEPA also observed demolition activities on the Main Site, but as of April 1992, a 635-foot long trench, four large tanks, smaller tanks, and some buildings remained on the Main Site.

g. Based on IEPA sampling results, the former process and storage areas on the Main Site contained materials and soils with maximum concentrations of the following semivolatile organic compounds exceeding the maximum concentrations in the background samples and in the nearby residential soil samples:

POLYAROMATIC HYDROCARBONS (PAHs)

acenaphthene; acenaphthalene; anthracene; benzo(a)anthracene; benzo(b)fluoranthene; benzo(g,h,i)perylene; benzo(k)fluoranthene; benzo(a)pyrene; chrysene;

dibenz(a,h)anthracene; fluoranthene; fluorene; indeno(1,2,3-cd)pyrene; pyrene; 2-methylnaphthalene; 1-methylnaphthalene; naphthalene; phenanthrene;

OTHER SEMIVOLATILE ORGANIC COMPOUNDS

dibenzofuran; n-nitrosodiphenylamine; carbozole;

h. In an inspection on July 18, 1994, U.S. EPA inspectors observed that a light-colored soil had been placed over a large portion of the Main Site. However, no top soil had been added, nor had there been planted any effective vegetation to stabilize the soil cover. The fence around the Main Site appeared to be intact.

i. On September 20, 1996, and October 22, 1996, Allied Signal and Celotex, respectively entered into an Administrative Order by Consent (AOC) with the U.S. EPA, Region 5, pursuant to Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) to undertake actions to produce an Engineering Evaluation/Cost Analysis (EE/CA).

j. After the AOC was executed in November 1996, the first investigation program that was performed was the Main Site field investigation. In October 1997, a report entitled "Data Report for the Engineering Evaluation and Cost Analysis of the 2800 South Sacramento Avenue Site" (Data Report) was submitted to the U.S. EPA. This report presented the findings and analytical data generated from the Main Site investigation, and contained information on surrounding land use, and the historical ownership and operation of the Main Site. The data from the Main Site investigation also resulted in the generation of the report entitled "Main Site Risk Assessment for the 2800 South Sacramento Avenue Site," (Risk Assessment), October 1998. No additional investigatory activities have been performed at the Main Site.

k. The Data Report determined that VOCs and PAHs were found at high concentrations at the Main Site. VOCs were elevated at the southwest area of the Main Site at a depth of 0 to 0.5 feet at concentrations of 83 and 25 parts per million (ppm). VOC concentrations at greater depths (8 to 18 feet) were much higher and are primarily located in the central west portion of the Main Site with concentrations as high as 862 ppm. PAHs (benzoapyrene equivalents) at a depth of 0 to 0.5 feet were elevated at the northern and southern areas of the Site with a concentration as high as 139 ppm. This trend continues at 1 to 2 feet with a concentration as high as 421 ppm and concentrations as high as 3,236 ppm between 8 to 10 feet.

l. Honeywell contracted with Parsons Engineering Services Inc. to perform an EE/CA which was released to the public in September 2004. On November 9, 2004 a public meeting was held at the Auditorium of the West Side Technical Institute, 2800 S. Western Avenue, Chicago, Illinois to present U.S. EPA's proposed cleanup action.

m. U.S. EPA issued an Action Memorandum for the Site on March 7, 2005. The Action Memorandum described the appropriate response actions U.S. EPA has selected for the Site. The Action Memorandum is attached hereto as Appendix C.

V. CONCLUSIONS OF LAW AND DETERMINATIONS

9. Based on the Findings of Fact set forth above, and the Administrative Record supporting this removal action, U.S. EPA has determined that:

a. The 2800 South Sacramento Site is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

b. The contamination found at the Main Site, as identified in the Findings of Fact above, includes [a] "hazardous substance(s)" as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

c. Respondent is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

d. Respondent is a responsible party under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and is liable for performance of the response action(s) and for response costs incurred and to be incurred at the Main Site and in the Residential Areas.

e. The conditions described in the Findings of Fact above constitute an actual or threatened "release" of a hazardous substance from the facility into the "environment" as defined by Sections 101(22) and 101(8) of CERCLA, 42 U.S.C.§§ 9601(22) and 9601(8).

f. The conditions present at the Main Site constitute a threat to public health, welfare, or the environment based upon the factors set forth in Section 300.415(b)(2) of the National Oil and Hazardous Substances Pollution Contingency Plan, as amended ("NCP"), 40 CFR §300.415(b)(2). These factors include, but are not limited to human exposure to carcinogenic PAHs.

g. The removal action required by this Settlement Agreement is necessary to protect the public health, welfare, or the environment and, if carried out in compliance with the terms of this Settlement Agreement, will be considered consistent with the NCP, as provided in Section 300.700(c)(3)(ii) of the NCP.

VI. SETTLEMENT AGREEMENT AND ORDER

10. Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the Administrative Record for this Site, it is hereby Ordered and Agreed that Respondent shall comply with all provisions of this Settlement Agreement, including, but not limited to, all attachments to this Settlement Agreement and all documents incorporated by reference into this Settlement Agreement.

VII. DESIGNATION OF CONTRACTOR, PROJECT COORDINATOR, AND REMEDIAL PROJECT MANAGER

11. Respondent shall retain one or more general contractors to manage the performance of the Work and shall notify U.S. EPA of the name(s) and qualifications of such contractor(s) within 5 business days of the Effective Date. Respondent shall also notify U.S. EPA of the name(s) and qualification(s) of any other contractor(s) or subcontractor(s) retained to perform the Work at least 5 business days prior to commencement of such Work. U.S. EPA retains the right to disapprove of any or all of the contractors and/or subcontractors retained by Respondent. If U.S. EPA disapproves of a selected contractor, Respondent shall retain a different contractor and shall notify U.S. EPA of that contractor's name and qualifications within 10 business days of U.S. EPA's disapproval. The contractor must demonstrate compliance with ANSI/ASQC E-4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs" (American National Standard, January 5, 1995), by submitting a copy of the proposed contractor's Quality Management Plan ("QMP"). The QMP should be prepared consistent with "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B0-1/002), or equivalent documentation as required by U.S. EPA.

12. Within 5 business days after the Effective Date, Respondent shall designate a Project Coordinator who shall be responsible for administration of all actions by Respondent required by this Settlement Agreement and shall submit to U.S. EPA the designated Project Coordinator's name, address, telephone number, and qualifications. To the greatest extent possible, the Project Coordinator shall be present on Main Site or readily available during Main Site work. U.S. EPA retains the right to disapprove of the designated Project Coordinator. If U.S. EPA disapproves of the designated Project Coordinator, Respondent shall retain a different Project Coordinator and shall notify U.S. EPA of that person's name, address, telephone number, and qualifications within 10 business days following U.S. EPA's disapproval. Receipt by Respondent's Project Coordinator of any notice or communication from U.S. EPA relating to this Settlement Agreement shall constitute receipt by Respondent.

13. U.S. EPA has designated Jena Sleboda of the Remedial Response Branch, Region 5, as its Remedial Project Manager ("RPM"). Except as otherwise provided in this Settlement Agreement, Respondent shall direct all submissions required by this Settlement Agreement to the RPM at 77 West Jackson SR-6J, Chicago, Illinois. Respondent is encouraged to make its submissions to U.S. EPA on recycled paper (which includes significant postconsumer waste paper content where possible) and using two-sided copies.

14. U.S. EPA and Respondent shall have the right, subject to Paragraph 12, to change their respective designated RPM or Project Coordinator. U.S. EPA shall notify the Respondent, and Respondent shall notify U.S. EPA, as early as possible before such a change is made, but in no case less than 24 hours before such a change. The initial notification may be made orally but it shall be promptly followed by a written notice.

VIII. WORK TO BE PERFORMED

15. Respondent shall perform, at a minimum, the following removal activities, consistent with the Action Memorandum and the SOW which are attached hereto as Appendices C and B:

A. Because the parties have recently learned that soil or other material may have been placed on the Main Site since the sampling performed in connection with the EECA was completed, Respondent will perform sampling on the Main Site to characterize the soil and other material beneath the existing gravel cover that may have been placed on the Main Site since the sampling performed in connection with the EECA was completed. The estimated depth of this material ranges from 1 to 6 feet.

B. Characterize the existing gravel cover.

C. If, after reviewing the results of the sampling performed pursuant to 15(A)-(B) above, EPA determines that the response action required by the Action Memorandum remains protective of human health and the environment, Respondent will place a two foot cover on the portion of the Main Site which does not already have a gravel cover. For those portions, if any, of the Main Site which currently have a gravel cover of less than two feet, Respondent shall add sufficient cover so as to create a two foot cover. If, after reviewing the results of the sampling performed pursuant to 15(A)-(B) above, EPA determines that the response action required by the Action Memorandum is not protective of human health and the environment, it will notify Respondent that it is terminating this Settlement Agreement pursuant to Section XXVI.

D. Use best efforts (as defined in Paragraph 24) to (i) have the current owners place institutional controls on the Main Site, which will restrict excavation of the cover so as to prevent exposure to contamination, and (ii) require, through the recording of deed restrictions by the current owners, current and future owners to maintain the integrity and two foot thickness of the gravel cover and prohibit future residential development and/or use of the Main Site.

16. Work Plan and Implementation.

a. Within 30 days after the Effective Date, Respondent shall submit to U.S. EPA for approval a draft Work Plan for performing the removal action ("removal" as used herein has the meaning set forth in CERCLA, and does not refer to soil excavation) for the Main Site, as generally described in Paragraph 15 above. The draft Work Plan shall provide a description of, and an expeditious schedule for, the actions required by this Settlement Agreement.

b. U.S. EPA may approve, disapprove, require revisions to, or modify and approve the draft Work Plan in whole or in part. If U.S. EPA requires revisions, Respondent shall submit a revised draft Work Plan within 30 calendar days of receipt of

U.S. EPA's notification of the required revisions which includes EPA's required revisions. Respondent shall implement the Work Plan as approved in writing by U.S. EPA in accordance with the schedule approved by U.S. EPA. Once approved, or approved with modifications, the Work Plan, the schedule, and any subsequent modifications shall be incorporated into and become fully enforceable under this Settlement Agreement.

c. Respondent shall not commence any Work except in conformance with the terms of this Settlement Agreement. Respondents shall not commence implementation of the Work Plan developed hereunder until receiving written U.S. EPA approval pursuant to Paragraph 15(b).

17. Health and Safety Plan. Along with each work plan, the Respondent shall submit for U.S. EPA review and comment a Health and Safety Plan ("HSP") that ensures the protection of the public health and safety during performance of on-site work under this Settlement Agreement. This HSP shall be prepared consistent with U.S. EPA's Standard Operating Safety Guide (PUB 9285.1-03, PB 92-963414, June 1992). In addition, the HSP shall comply with all currently applicable Occupational Safety and Health Administration ("OSHA") regulations found at 29 C.F.R. Part 1910. If U.S. EPA determines that it is appropriate, the HSP shall also include contingency planning. Respondent shall incorporate all changes to the plan recommended by U.S. EPA and shall implement the plan during the pendency of the removal action. Once approved by U.S. EPA, the HSP shall be incorporated by reference into the Work Plan enforceable under this Settlement Agreement.

18. Quality Assurance and Sampling.

a. All sampling and analyses performed pursuant to this Settlement Agreement shall conform to U.S. EPA direction, approval, and guidance regarding sampling, quality assurance/quality control ("QA/QC"), data validation, and chain of custody procedures. Respondent shall ensure that the laboratory used to perform the analyses participates in a QA/QC program that complies with the appropriate U.S. EPA guidance. Respondent shall follow, as appropriate, "Quality Assurance/Quality Control Guidance for Removal Activities: Sampling QA/QC Plan and Data Validation Procedures" (OSWER Directive No. 9360.4-01, April 1, 1990), as guidance for QA/QC and sampling. Respondent shall only use laboratories that have a documented Quality System that complies with ANSI/ASQC E-4 1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs" (American National Standard, January 5, 1995), and "EPA Requirements for Quality Management Plans (QA/R-2) (EPA/240/B-01/002, March 2001)," or equivalent documentation as determined by U.S. EPA. U.S. EPA may consider laboratories accredited under the National Environmental Laboratory Accreditation Program ("NELAP") as meeting the Quality System requirements. The QAPP should be prepared in accordance with "EPA Requirements for Quality Assurance Project Plans (QA/R-5)" (EPA/240/B-01/003, March 2001), and "EPA Guidance for Quality Assurance Project Plans (QA/G-5)" (EPA/600/R-98/018, February 1998).

b. Upon request by U.S. EPA, Respondent shall have such a laboratory analyze samples submitted by U.S. EPA for QA monitoring. Respondent shall provide to U.S. EPA the QA/QC procedures followed by all sampling teams and laboratories performing data collection and/or analysis.

c. Upon request by U.S. EPA, Respondent shall allow U.S. EPA or its authorized representatives to take split and/or duplicate samples. Respondents shall notify U.S. EPA not less than 3 business days in advance of any sample collection activity, unless shorter notice is agreed to by U.S. EPA. U.S. EPA shall have the right to take any additional samples that U.S. EPA deems necessary. Upon request, U.S. EPA shall allow Respondent to take split or duplicate samples of any samples it takes as part of its oversight of Respondent's implementation of the Work.

19. Post-Removal Site Control. In accordance with the Work Plan schedule, or as otherwise directed by U.S. EPA, Respondent shall submit a proposal for post-removal site control consistent with Section 300.415(*l*) of the NCP and OSWER Directive No. 9360.2-02. Upon U.S. EPA approval, Respondents shall implement such controls and shall provide U.S. EPA with documentation of all post-removal site control arrangements.

20. Reporting.

a. Respondent shall submit a progress report to U.S. EPA (in both a written and electronic format) concerning actions undertaken pursuant to this Settlement Agreement. The Report shall be submitted on the 20th day of each month beginning the month after the date of receipt of U.S. EPA's approval of the Work Plan until termination of this Settlement Agreement, unless otherwise directed in writing by the RPM. These reports shall describe all significant developments during the preceding period, including the actions performed and any problems encountered, analytical data received during the reporting period, and the developments anticipated during the next reporting period, including a schedule of actions to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

b. Respondent shall submit three (3) hard copies and one (1) electronic copy of all plans, reports or other submissions required by this Settlement Agreement, or any approved work plan, unless otherwise directed in writing by the RPM.

c. Respondents who own or control property at the Main Site shall, at least 30 days prior to the conveyance of any interest in real property at the Main Site, give written notice to the transferee that the property is subject to this Settlement Agreement, including deed restrictions on the use of the property, and written notice to U.S. EPA and the State of the proposed conveyance, including the name and address of the transferee. Respondents who own or control property at the Main Site also agree to require that their successors comply with the immediately proceeding sentence and Sections IX (Site Access) and X (Access to Information).

21. Final Report. Within 45 days after completion of all Work required by Section VIII of this Settlement Agreement, Respondent shall submit for U.S. EPA review a final report, named the "Remediation Closeout Report," summarizing the actions taken to comply with this Settlement Agreement. The final report shall conform, at a minimum, with the requirements set forth in Section 300.165 of the NCP entitled "OSC Reports" and with the guidance set forth in "Superfund Removal Procedures: Removal Response Reporting – POLREPS and OSC Reports" (OSWER Directive No. 9360.3-03, June 1, 1994). The final report shall include a good faith estimate of total costs or a statement of actual costs incurred in complying with the Settlement Agreement, a listing of quantities and types of materials removed off-Site or handled on-Site, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destination(s) of those materials, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action (*e.g.*, manifests, invoices, bills, contracts, and permits). The final report shall also include the following certification signed by a person who supervised or directed the preparation of that report:

"Under penalty of law, I certify that to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of the report, the information submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

22. Off-Site Shipments.

a. Respondent shall, prior to any off-Site shipment of Waste Material from the Main Site to an out-of-state waste management facility, provide written notification of such shipment of Waste Material to the appropriate state environmental official in the receiving facility's state and to the RPM. However, this notification requirement shall not apply to any off-Site shipments when the total volume of all such shipments will not exceed 10 cubic yards.

i. Respondent shall include in the written notification the following information: 1) the name and location of the facility to which the Waste Material is to be shipped; 2) the type and quantity of the Waste Material to be shipped; 3) the expected schedule for the shipment of the Waste Material; and 4) the method of transportation. Respondent shall notify the state in which the planned receiving facility is located of major changes in the shipment plan, such as a decision to ship the Waste Material to another facility within the same state, or to a facility in another state.

ii. The identity of the receiving facility and state will be determined by Respondent following the award of the contract for the removal action. Respondent shall provide the information required by Paragraph 21(a) and 21(b) as soon as practicable after the award of the contract and before the Waste Material is actually shipped.

b. Before shipping any hazardous substances, pollutants, or contaminants from the Site to an off-site location, Respondent shall obtain U.S. EPA's certification that the proposed receiving facility is operating in compliance with the requirements of CERCLA Section 121(d)(3), 42 U.S.C. § 9621(d)(3), and 40 C.F.R. § 300.440. Respondent shall only send hazardous substances, pollutants, or contaminants from the Main Site to an off-site facility that complies with the requirements of the statutory provision and regulation cited in the preceding sentence.

IX. SITE ACCESS

23. If the Main Site, or any other property where access is needed to implement this Settlement Agreement, is owned or controlled by the Respondent, Respondent shall, commencing on the Effective Date, provide U.S. EPA, the State, and their representatives, including contractors, with access at all reasonable times to the Main Site, or such other property, for the purpose of conducting any activity related to this Settlement Agreement.

24. Where any action under this Settlement Agreement is to be performed in areas owned by or in possession of someone other than Respondent, Respondent shall use its best efforts to obtain all necessary access agreements within 45 business days after the Effective Date. Respondent shall immediately notify U.S. EPA if after using its best efforts it is unable to obtain such agreements. For purposes of this Paragraph, "best efforts" includes the payment of reasonable sums of money in consideration of access. Respondent shall describe in writing its efforts to obtain access. U.S. EPA may then assist Respondent in gaining access, to the extent necessary to effectuate the response actions described herein, using such means as U.S. EPA deems appropriate. Respondent shall reimburse U.S. EPA for all costs and attorney's fees incurred by the United States in obtaining such access, in accordance with the procedures in Section XV (Payment of Response Costs).

25. Notwithstanding any provision of this Settlement Agreement, U.S. EPA and the State retain all of their access authorities and rights, including enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

X. ACCESS TO INFORMATION

26. Respondent shall provide to U.S. EPA, upon request, copies of all non-privileged documents and information within its possession or control or that of its contractors or agents relating to activities at the Main Site or to the implementation of this Settlement Agreement, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Work. Respondent shall also make available to U.S. EPA, for purposes of investigation, information gathering, or testimony, its employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

27. Respondent may assert business confidentiality claims covering part or all of the documents or information submitted to U.S. EPA under this Settlement Agreement to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Documents or information determined to be confidential by U.S. EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies documents or information when they are submitted to U.S. EPA, or if U.S. EPA has notified Respondent that the documents or information are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2, Subpart B, the public may be given access to such documents or information without further notice to Respondent.

28. Respondent may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If the Respondent asserts such a privilege in lieu of providing documents, it shall provide U.S. EPA with the following: 1) the title of the document, record, or information; 2) the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the contents of the document, record, or information; and 6) the privilege asserted by Respondent. However, no documents, reports or other information created or generated pursuant to the requirements of this Settlement Agreement shall be withheld on the grounds that they are privileged.

29. No claim of confidentiality shall be made with respect to any data, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other documents or information evidencing conditions at or around the Main Site.

XI. RECORD RETENTION

30. Until 6 years after Respondent's receipt of U.S. EPA's notification pursuant to Section XXVII (Notice of Completion of Work), Respondent shall preserve and retain all non-identical copies of records and documents (including records or documents in electronic form) now in its possession or control or which come into its possession or control that relate in any manner to the performance of the Work or the liability of any person under CERCLA with respect to the Main Site, regardless of any corporate retention policy to the contrary. Until 6 years after Respondent's receipt of U.S. EPA's notification pursuant to Section XXVII (Notice of Completion of Work), Respondent shall also instruct its contractors and agents to preserve all documents, records, and information of whatever kind, nature or description relating to performance of the Work.

31. At the conclusion of this document retention period, Respondent shall notify U.S. EPA at least 60 days prior to the destruction of any such records or documents, and, upon request by U.S. EPA, Respondent shall deliver any such records or documents to U.S. EPA. Respondent may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Respondent asserts such a privilege, it shall provide U.S.

EPA with the following: 1) the title of the document, record, or information; 2) the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the subject of the document, record, or information; and 6) the privilege asserted by Respondent. However, no documents, reports or other information created or generated pursuant to the requirements of this Settlement Agreement shall be withheld on the grounds that they are privileged.

32. Respondent hereby certifies individually that to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents or other information (other than identical copies) relating to its potential liability regarding the Main Site since notification of potential liability by U.S. EPA or the State or the filing of suit against it regarding the Main Site and that it has fully complied and will fully comply with any and all U.S. EPA requests for information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927.

XII. COMPLIANCE WITH OTHER LAWS

33. Respondent shall perform all actions required pursuant to this Settlement Agreement in accordance with all applicable local, state, and federal laws and regulations except as provided in Section 121(e) of CERCLA, 42 U.S.C. § 6921(e), and 40 C.F.R. §§ 300.400(e) and 300.415(j). In accordance with 40 C.F.R. § 300.415(j), all on-Site actions required pursuant to this Settlement Agreement shall, to the extent practicable, as determined by U.S. EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements ("ARARs") under federal environmental or state environmental or facility siting laws. Respondents shall identify ARARs in the Work Plan subject to U.S. EPA approval.

XIII. EMERGENCY RESPONSE AND NOTIFICATION OF RELEASES

34. In the event of any action or occurrence during performance of the Work which causes or threatens a release of Waste Material from the Main Site that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Respondent shall immediately take all appropriate action. Respondent shall take these actions in accordance with all applicable provisions of this Settlement Agreement, including, but not limited to, the Health and Safety Plan, in order to prevent, abate or minimize such release or endangerment caused or threatened by the release. Respondent shall also immediately notify the RPM or, in the event of his/her unavailability, the Regional Duty Officer, Emergency Response Branch, Region 5 at (312) 353-2318, of the incident or Main Site conditions. In the event that Respondent fails to take appropriate response action as required by this Paragraph, and U.S. EPA takes such action instead, Respondent shall reimburse U.S. EPA all costs of the response action not inconsistent with the NCP pursuant to Section XV (Payment of Response Costs).

35. In addition, in the event of any release of a hazardous substance from the Main Site, Respondent shall immediately notify the RPM at (312) 353-1263 and the National Response Center at (800) 424-8802. Respondent shall submit a written report to U.S. EPA within 7 business days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. This reporting requirement is in addition to, and not in lieu of, reporting under Section 103(c) of CERCLA, 42 U.S.C. § 9603(c), and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11004, *et seq.*

XIV. AUTHORITY OF REMEDIAL PROJECT MANAGER

36. The RPM shall be responsible for overseeing Respondent's implementation of this Settlement Agreement. The RPM shall have the authority vested in an RPM by the NCP, including the authority to halt, conduct, or direct any Work required by this Settlement Agreement, or to direct any other removal action undertaken at the Main Site. Absence of the RPM from the Site shall not be cause for stoppage of work unless specifically directed by the RPM.

XV. PAYMENT OF RESPONSE COSTS

37. Payment for Past Response Costs.

a. Within 30 days after the Effective Date, Respondent shall pay to U.S. EPA $183,634.60 for Past Response Costs. Payment shall be made to U.S. EPA by Electronic Funds Transfer ("EFT") in accordance with current EFT procedures to be provided to Respondent by U.S. EPA Region 5, and shall be accompanied by a statement identifying the name and address of the party(ies) making payment, the Main Site name, and Site/Spill ID Number 055Q, and the U.S. EPA docket number for this action and shall be sent to:

U.S. Environmental Protection Agency
Program Accounting & Analysis Section
P.O. Box 70753
Chicago, Illinois 60673

b. At the time of payment, Respondent shall send notice that such payment has been made to the Director, Superfund Division, U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, Illinois, 60604-3590 and to Ms. Karen Peaceman, Associate Regional Counsel, 77 West Jackson Boulevard, C-14J, Chicago, Illinois, 60604-3590.

c. Of the total amount to be paid by Respondent pursuant to Paragraph 37(a), 0% shall be deposited in the U.S. EPA Hazardous Substance Superfund and 100% shall be deposited in the 2800 South Sacramento Special Account within the U.S. EPA Hazardous Substance Superfund to be retained and used to conduct or finance

due will be adjusted as necessary. If the dispute is not resolved before payment is due, Respondent shall pay the full amount of the uncontested costs to U.S. EPA as specified in Paragraph 37 on or before the due date. Within the same time period, Respondent shall pay the full amount of the contested costs into an interest-bearing escrow account. Respondent shall simultaneously transmit a copy of both checks to the persons listed in Paragraph 37(c) above. Respondent shall ensure that the prevailing party or parties in the dispute shall receive the amount upon which they prevailed from the escrow funds plus interest within 20 calendar days after the dispute is resolved.

XVI. DISPUTE RESOLUTION

41. Unless otherwise expressly provided for in this Settlement Agreement, the dispute resolution procedures of this Section shall be the exclusive mechanism for resolving disputes arising under this Settlement Agreement, provided, however, that in the event of an enforcement action by U.S. EPA, Respondent shall be entitled to raise any and all defenses and arguments. The Parties shall attempt to resolve any disagreements concerning this Settlement Agreement expeditiously and informally.

42. If Respondent objects to any U.S. EPA action taken pursuant to this Settlement Agreement, including billings for Future Response Costs, it shall notify U.S. EPA in writing of its objection(s) within 10 calendar days of such action, unless the objection(s) has/have been resolved informally. This written notice shall include a statement of the issues in dispute, the relevant facts upon which the dispute is based, all factual data, analysis or opinion supporting Respondent's position, and all supporting documentation on which such party relies. U.S. EPA shall provide its Statement of Position, including supporting documentation, no later than 10 calendar days after receipt of the written notice of dispute. In the event that these 10-day time periods for exchange of written documents may cause a delay in the work, they shall be shortened upon, and in accordance with, notice by U.S. EPA. The time periods for exchange of written documents relating to disputes over billings for response costs may be extended at the sole discretion of U.S. EPA. An administrative record of any dispute under this Section shall be maintained by U.S. EPA. The record shall include the written notification of such dispute, and the Statement of Position served pursuant to the preceding paragraph. Upon review of the administrative record, the Director of the Superfund Division, U.S. EPA Region 5, shall resolve the dispute consistent with the NCP and the terms of this Settlement Agreement.

43. Respondent's obligations under this Settlement Agreement shall not be tolled by submission of any objection for dispute resolution under this Section. Following resolution of the dispute, as provided by this Section, Respondent shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with U.S. EPA's decision, whichever occurs.

XVII. FORCE MAJEURE

44. Respondent agrees to perform all requirements of this Settlement Agreement within the time limits established under this Settlement Agreement, unless the

response actions at or in connection with the Main Site or the Residential Areas, or to be transferred by U.S. EPA to the U.S. EPA Hazardous Substance Superfund.

38. Payments for Future Response Costs.

a. Respondent shall pay U.S. EPA all Future Response Costs not inconsistent with the NCP. On a periodic basis, U.S. EPA will send Respondent a bill requiring payment that consists of an Itemized Cost Summary. Respondent shall make all payments within 30 calendar days of receipt of each bill requiring payment, except as otherwise provided in Paragraph 39 of this Settlement Agreement.

b. Respondent shall make all payments required by this Paragraph by a certified or cashier's check or checks made payable to "U.S. EPA Hazardous Substance Superfund," referencing the name and address of the party(ies) making payment and U.S. EPA Site/Spill ID number 055Q. Respondents shall send the check(s) to:

U.S. Environmental Protection Agency
Program Accounting & Analysis Section
P.O. Box 70753
Chicago, Illinois 60673

c. At the time of payment, Respondent shall send notice that payment has been made to the Director, Superfund Division, U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, Illinois, 60604-3590 and to Ms. Karen Peaceman, Associate Regional Counsel, 77 West Jackson Boulevard, C-14J, Chicago, Illinois, 60604-3590.

d. The total amount to be paid by Respondent pursuant to Paragraph 38(a) shall be deposited in the 2800 South Sacramento Special Account within the U.S. EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Main Site or the Residential Areas, or to be transferred by U.S. EPA to the U.S. EPA Hazardous Substance Superfund.

39. In the event that the payment for Past Response Costs is not made within 30 days of the Effective Date, or the payments for Future Response Costs are not made within 30 days of Respondent's receipt of a bill, Respondent shall pay Interest on the unpaid balance. The Interest on Past Response Costs shall begin to accrue on the Effective Date and shall continue to accrue until the date of payment. The Interest on Future Response Costs shall begin to accrue on the date of the bill and shall continue to accrue until the date of payment. Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to the United States by virtue of Respondent's failure to make timely payments under this Section, including but not limited to, payment of stipulated penalties pursuant to Section XVIII.

40. Respondent may dispute all or part of a bill for Future Response Costs submitted under this Settlement Agreement, only if Respondent alleges that U.S. EPA has made an accounting error, or if Respondents allege that a cost item is inconsistent with the NCP. If any dispute over costs is resolved before payment is due, the amount

performance is delayed by a *force majeure*. For purposes of this Settlement Agreement, a *force majeure* is defined as any event arising from causes beyond the control of Respondent, or of any entity controlled by Respondent, including but not limited to its contractors and subcontractors, which delays or prevents performance of any obligation under this Settlement Agreement despite Respondent's best efforts to fulfill the obligation. *Force majeure* does not include financial inability to complete the Work or increased cost of performance.

45. If any event occurs or has occurred that may delay the performance of any obligation under this Settlement Agreement, whether or not caused by a *force majeure* event, Respondent shall notify U.S. EPA orally within 24 hours of when Respondent first knew that the event might cause a delay. Within 7 calendar days thereafter, Respondent shall provide to U.S. EPA in writing an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Respondent's rationale for attributing such delay to a *force majeure* event if it intends to assert such a claim; and a statement as to whether, in the opinion of Respondent, such event may cause or contribute to an endangerment to public health, welfare or the environment. Failure to comply with the above requirements shall be grounds for U.S. EPA to deny Respondent an extension of time for performance. Respondent shall have the burden of demonstrating by a preponderance of the evidence that the event is a *force majeure*, that the delay is warranted under the circumstances, and that best efforts were exercised to avoid and mitigate the effects of the delay.

46. If U.S. EPA agrees that the delay or anticipated delay is attributable to a *force majeure* event, the time for performance of the obligations under this Settlement Agreement that are affected by the *force majeure* event will be extended by U.S. EPA for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the *force majeure* event shall not, of itself, extend the time for performance of any other obligation. If U.S. EPA does not agree that the delay or anticipated delay has been or will be caused by a *force majeure* event, U.S. EPA will notify Respondent in writing of its decision. If U.S. EPA agrees that the delay is attributable to a *force majeure* event, U.S. EPA will notify Respondent in writing of the length of the extension, if any, for performance of the obligations affected by the *force majeure* event.

XVIII. STIPULATED PENALTIES

47. Respondent shall be liable to U.S. EPA for stipulated penalties in the amounts set forth in Paragraphs 47 and 48 for failure to comply with the requirements of this Settlement Agreement including requirements of the SOW specified below, unless excused under Section XVII (*Force Majeure*). "Compliance" by Respondent shall include completion of the activities under this Settlement Agreement or any work plan or other plan approved under this Settlement Agreement identified below in accordance with all applicable requirements of this Settlement Agreement within the specified time schedules established by and approved under this Settlement Agreement.

48. Stipulated Penalty Amounts - Work.

a. The following stipulated penalties shall accrue per violation per day for any noncompliance identified in Paragraph 47(b):

Penalty Per Violation Per Day	Period of Noncompliance
$ 250	1st through 14th day
$ 750	15th through 30th day
$ 1,500	31st day and beyond

b. The Compliance Milestones include: selection of one or more contractors to do the Work; the designation of a Project Coordinator; submission of the Work Plan and required revisions thereto, and meeting all scheduled dates for performance in the approved Work Plan and the submission of the Remediation Closeout Report that meets the requirements of Paragraph 21.

49. Stipulated Penalty Amounts - Reports. The following stipulated penalties shall accrue per violation per day for failure to submit timely or adequate reports pursuant to Paragraph 20a.:

Penalty Per Violation Per Day	Period of Noncompliance
$ 100	1st through 14th day
$ 250	15th through 30th day
$ 750	31st day and beyond

50. All penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs, and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. However, stipulated penalties shall not accrue: 1) with respect to a deficient submission under Section VIII (Work to be Performed), during the period, if any, beginning on the 31st day after U.S. EPA's receipt of such submission until the date that U.S. EPA notifies Respondent of any deficiency; and 2) with respect to a decision by the Director of the Superfund Division, Region 5, under Paragraph 41 of Section XVI (Dispute Resolution), during the period, if any, beginning on the 21st day after U.S. EPA submits its written statement of position until the date that the Director of the Superfund Division issues a final decision regarding such dispute. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Settlement Agreement.

51. Following U.S. EPA's determination that Respondent has failed to comply with a requirement of this Settlement Agreement, U.S. EPA may give Respondent written notification of the failure and describe the noncompliance. U.S. EPA may send Respondent a written demand for payment of the penalties. However, penalties shall accrue as provided in the preceding Paragraph regardless of whether U.S. EPA has notified Respondent of a violation.

52. All penalties accruing under this Section shall be due and payable to U.S. EPA within 30 days of Respondent's receipt from U.S. EPA of a demand for payment of

the penalties, unless Respondent invokes the dispute resolution procedures under Section XVI (Dispute Resolution). All payments to U.S. EPA under this Section shall be paid by certified or cashier's check(s) made payable to "U.S. EPA Hazardous Substances Superfund," shall be mailed to U.S. Environmental Protection Agency, Program Accounting & Analysis Section, P.O. Box 70753, Chicago, Illinois 60673, shall indicate that the payment is for stipulated penalties, and shall reference the U.S. EPA Site/Spill ID Number 055Q, the U.S. EPA Docket Number, and the name and address of the parties making payment. Copies of check(s) paid pursuant to this Section, and any accompanying transmittal letter(s), shall be sent to U.S. EPA as provided in Paragraphs 37(b) and (c).

53. The payment of penalties shall not alter in any way Respondent's obligation to complete performance of the Work required under this Settlement Agreement.

54. Penalties shall continue to accrue during any dispute resolution period (except as provided in Paragraph 50), but need not be paid until 20 days after the dispute is resolved by agreement or by receipt of U.S. EPA's decision.

55. If Respondent fails to pay stipulated penalties when due, U.S. EPA may institute proceedings to collect the penalties, as well as Interest. Respondent shall pay Interest on the unpaid balance, which shall begin to accrue on the date of demand made pursuant to Paragraph 52. Nothing in this Settlement Agreement shall be construed as prohibiting, altering, or in any way limiting the ability of U.S. EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this Settlement Agreement or of the statutes and regulations upon which it is based, including, but not limited to, penalties pursuant to Sections 106(b) and 122(*l*) of CERCLA, 42 U.S.C. §§ 9606(b) and 9622(*l*), and punitive damages pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Provided, however, that U.S. EPA shall not seek civil penalties pursuant to Section 106(b) or 122(*l*) of CERCLA or punitive damages pursuant to Section 107(c)(3) of CERCLA for any violation for which a stipulated penalty is provided herein, except in the case of a willful violation of this Settlement Agreement. Should Respondent violate this Settlement Agreement or any portion hereof, U.S. EPA may carry out the required actions unilaterally, pursuant to Section 104 of CERCLA, 42 U.S.C. §9604, and/or may seek judicial enforcement of this Settlement Agreement pursuant to Section 106 of CERCLA, 42 U.S.C. §9606. Notwithstanding any other provision of this Section, U.S. EPA may, in its unreviewable discretion, waive in writing any portion of stipulated penalties that have accrued pursuant to this Settlement Agreement.

XIX. COVENANT NOT TO SUE BY U.S. EPA

56. In consideration of the actions that will be performed and the payments that will be made by Respondent under the terms of this Settlement Agreement, and except as otherwise specifically provided in this Settlement Agreement, U.S. EPA covenants not to sue or to take administrative action against Respondent pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), for performance

of the Work, and for recovery of Past Response Costs, and Future Response Costs. This covenant not to sue shall take effect upon receipt by U.S. EPA of the Past Response Costs due under Section XV of this Settlement Agreement and any Interest or Stipulated Penalties due for failure to pay Past Response Costs as required by Sections XV and XVIII of this Settlement Agreement. This covenant not to sue is conditioned upon the complete and satisfactory performance by Respondent of its obligations under this Settlement Agreement, including, but not limited to, payment of Future Response Costs pursuant to Section XV. This covenant not to sue extends only to Respondent and does not extend to any other person.

XX. RESERVATIONS OF RIGHTS BY U.S. EPA

57. Except as specifically provided in this Settlement Agreement, nothing herein shall limit the power and authority of U.S. EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Main Site. Further, nothing herein shall prevent U.S. EPA from seeking legal or equitable relief to enforce the terms of this Settlement Agreement. Except as specifically provided in this Settlement Agreement, U.S. EPA also reserves the right to take any other legal or equitable action as it deems appropriate and necessary, or to require the Respondent in the future to perform additional activities pursuant to CERCLA or any other applicable law.

58. Nothing herein shall limit the power and authority of U.S. EPA or the United States to determine that the existing gravel cover is not protective of human health or the environment after U.S. EPA reviews the results of the sampling to characterize the Main Site and the existing gravel cover required by Paragraph 15(A)-(B). If U.S. EPA or the United States does determine that the existing gravel cover is no longer protective of human health or the environment, the covenant not to sue set forth in Section XIX shall not apply, and U.S. EPA reserves the right to take any legal or equitable action as it deems appropriate and necessary, or require the Respondent in the future to perform additional activities at the Main Site pursuant to CERCLA or any other applicable law.

59. The covenant not to sue set forth in Section XIX above does not pertain to any matters other than those expressly identified therein. U.S. EPA reserves, and this Settlement Agreement is without prejudice to, all rights against Respondent with respect to all other matters, including, but not limited to:

a. claims based on a failure by Respondent to meet a requirement of this Settlement Agreement;

b. liability for costs not included within the definitions of Past Response Costs or Future Response Costs;

c. liability for performance of response action other than the Work, including but not limited to any response action with regard to any Residential Areas or

any response action with regard to additional contamination on the Main Site discovered during the sampling done to characterize the Main Site and gravel cover pursuant to 15(a)-(b);

d. criminal liability;

e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;

f. liability arising from the past, present, or future disposal, release or threat of release of Waste Materials outside of the Main Site; and

g. liability for costs incurred or to be incurred by the Agency for Toxic Substances and Disease Registry related to the Main Site.

XXI. COVENANT NOT TO SUE BY RESPONDENT

60. Respondent covenants not to sue and agrees not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Work, Past Response Costs, Future Response Costs, or this Settlement Agreement, including, but not limited to:

a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund established by 26 U.S.C. § 9507, based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claim arising out of response actions at or in connection with the Main Site, including any claim under the United States Constitution, the [State] Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; or

c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the Main Site.

These covenants not to sue shall not apply in the event the United States brings a cause of action or issues an order pursuant to the reservations set forth in Paragraphs 58 (b), (c), and (e) - (g), but only to the extent that Respondent's claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

61. Nothing in this Agreement shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

XXII. OTHER CLAIMS

62. By issuance of this Settlement Agreement, the United States and U.S. EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondent. The United States or U.S. EPA shall not be deemed a party to any contract entered into by Respondent or its directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out actions pursuant to this Settlement Agreement.

63. Except as expressly provided in Section XIX (Covenant Not to Sue by U.S. EPA), nothing in this Settlement Agreement constitutes a satisfaction of or release from any claim or cause of action against Respondent or any person not a party to this Settlement Agreement, for any liability such person may have under CERCLA, other statutes, or common law, including but not limited to any claims of the United States for costs, damages and interest under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607.

64. No action or decision by U.S. EPA pursuant to this Settlement Agreement shall give rise to any right to judicial review, except as set forth in Section 113(h) of CERCLA, 42 U.S.C. § 9613(h).

XXIII. CONTRIBUTION

65.

a. The Parties agree that this Settlement Agreement constitutes an administrative settlement for purposes of Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), and that Respondent is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), for "matters addressed" in this Settlement Agreement. The "matters addressed" in this Settlement Agreement are the Work, Past Response Costs, and Future Response Costs. Nothing in this Settlement Agreement precludes the United States or Respondent from asserting any claims, causes of action, or demands against any persons not parties to this Settlement Agreement for indemnification, contribution, or cost recovery.

b. The Parties agree that this Settlement Agreement constitutes an administrative settlement for purposes of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B), pursuant to which Respondent has, as of the Effective Date, resolved its liability to the United States for the Work, Past Response Costs, and Future Response Costs.

XXIV. INDEMNIFICATION

66. Respondent shall indemnify, save and hold harmless the United States, its officials, agents, contractors, subcontractors, employees and representatives from any and all claims or causes of action arising from, or on account of, negligent or other wrongful acts or omissions of Respondent, its officers, directors, employees, agents, contractors, or

subcontractors, in carrying out actions pursuant to this Settlement Agreement. In addition, Respondent agrees to pay the United States all costs incurred by the United States, including but not limited to attorneys fees and other expenses of litigation and settlement, arising from or on account of claims made against the United States based on negligent or other wrongful acts or omissions of Respondent, its officers, directors, employees, agents, contractors, subcontractors and any persons acting on its behalf or under their control, in carrying out activities pursuant to this Settlement Agreement. The United States shall not be held out as a party to any contract entered into by or on behalf of Respondent in carrying out activities pursuant to this Settlement Agreement. Neither Respondent nor any such contractor shall be considered an agent of the United States. The Federal Tort Claims Act (28 U.S.C. §§ 2671, 2680) provides coverage for injury or loss of property, or injury or death caused by the negligent or wrongful act or omission of an employee of U.S. EPA while acting within the scope of his or her employment, under circumstances where U.S. EPA, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

67. The United States shall give Respondent notice of any claim for which the United States plans to seek indemnification pursuant to this Section and shall consult with Respondent prior to settling such claim.

68. Respondent waives all claims against the United States for damages or reimbursement or for set-off of any payments made or to be made to the United States, arising from or on account of any contract, agreement, or arrangement between Respondent and any person for performance of Work on or relating to the Main Site, including, but not limited to, claims on account of construction delays. In addition, Respondent shall indemnify and hold harmless the United States with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between Respondent and any person for performance of Work on or relating to the Main Site, including, but not limited to, claims on account of construction delays.

XXV. MODIFICATIONS

69. The RPM may, consistent with this Settlement Agreement, make modifications to any plan or schedule in writing or by oral direction. Any oral modification will be memorialized in writing by U.S. EPA promptly, but shall have as its effective date the date of the RPM's oral direction. Any other requirements of this Settlement Agreement may be modified in writing by mutual agreement of the parties.

70. If Respondent seeks permission to deviate from any approved work plan or schedule, Respondent's Project Coordinator shall submit a written request to U.S. EPA for approval outlining the proposed modification and its basis. Respondent may not proceed with the requested deviation until receiving oral or written approval from the RPM pursuant to Paragraph 69.

71. No informal advice, guidance, suggestion, or comment by the RPM or other U.S. EPA representatives regarding reports, plans, specifications, schedules, or any

other writing submitted by Respondent shall relieve Respondent of its obligation to obtain any formal approval required by this Settlement Agreement, or to comply with all requirements of this Settlement Agreement, unless it is formally modified.

XXVI. TERMINATION BY U.S. EPA

72. If U.S. EPA determines after reviewing the results of the sampling required by Paragraph 15(a)-(b) that the response action required by the Action Memorandum is no longer protective of human health and the environment, it will notify Respondent to cease all Work at the Main Site, and this Settlement Agreement shall be terminated.

73. If U.S. EPA terminates this Settlement Agreement pursuant to Paragraph 72, it reserves its rights to take any legal or equitable action as it deems appropriate and necessary, or require the Respondent in the future to perform additional activities at the Main Site pursuant to CERCLA or any other applicable law.

74. If U.S. EPA terminates this Settlement Agreement pursuant to Paragraph 72, Respondent will not be bound by this Settlement Agreement and reserves all of its rights.

XXVII. NOTICE OF COMPLETION OF WORK

75. When U.S. EPA determines, after U.S. EPA's review of the Remediation Closeout Report, that all Work has been fully performed in accordance with this Settlement Agreement, with the exception of any continuing obligations required by this Settlement Agreement, including, *e.g.*, post-removal site controls, payment of Future Response Costs, and record retention, U.S. EPA will provide written notice to Respondent. If U.S. EPA determines that any such Work has not been completed in accordance with this Settlement Agreement, U.S. EPA will notify Respondent, provide a list of the deficiencies, and require that Respondent modify the Work Plan if appropriate in order to correct such deficiencies. Respondent shall implement the modified and approved Work Plan and shall submit a modified Final Report in accordance with the U.S. EPA notice. Failure by Respondent to implement the approved modified Work Plan shall be a violation of this Settlement Agreement.

XXVIII. INSURANCE

76. At least 7 days prior to commencing any on-Site work under this Settlement Agreement, Respondent shall secure, and shall maintain for the duration of this Settlement Agreement, comprehensive general liability insurance and automobile insurance with limits of 1 million dollars, combined single limit. Within the same time period, Respondent shall provide U.S. EPA with certificates of such insurance and a copy of each insurance policy. In addition, for the duration of the Settlement Agreement, Respondent shall satisfy, or shall ensure that their contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Work on behalf of Respondent in furtherance of

this Settlement Agreement. If Respondent demonstrates by evidence satisfactory to U.S. EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering some or all of the same risks but in an equal or lesser amount, then Respondent need provide only that portion of the insurance described above which is not maintained by such contractor or subcontractor.

XXIX. SEVERABILITY/INTEGRATION/ATTACHMENTS

77. If a court issues an order that invalidates any provision of this Settlement Agreement or finds that Respondent has sufficient cause not to comply with one or more provisions of this Settlement Agreement, Respondent shall remain bound to comply with all provisions of this Settlement Agreement not invalidated or determined to be subject to a sufficient cause defense by the court's order.

78. This Settlement Agreement and its appendices constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Settlement Agreement. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Settlement Agreement.

XXX. EFFECTIVE DATE

79. This Settlement Agreement shall be effective upon signature by Respondent of this Settlement Agreement (after signature by the Director, Superfund Division, U.S. EPA Region 5).

XXXI. APPENDICES

80. The following appendices are incorporated into this Settlement Agreement:

Appendix A: Map of the Site

Appendix B: Scope of Work

Appendix C: Action Memorandum

The undersigned representatives of Respondents each certify that they are fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party they represent to this document.

Agreed this 29th day of August, 2006.

For Respondent

By _____

Title Remediation Portfolio Director

IN THE MATTER OF:

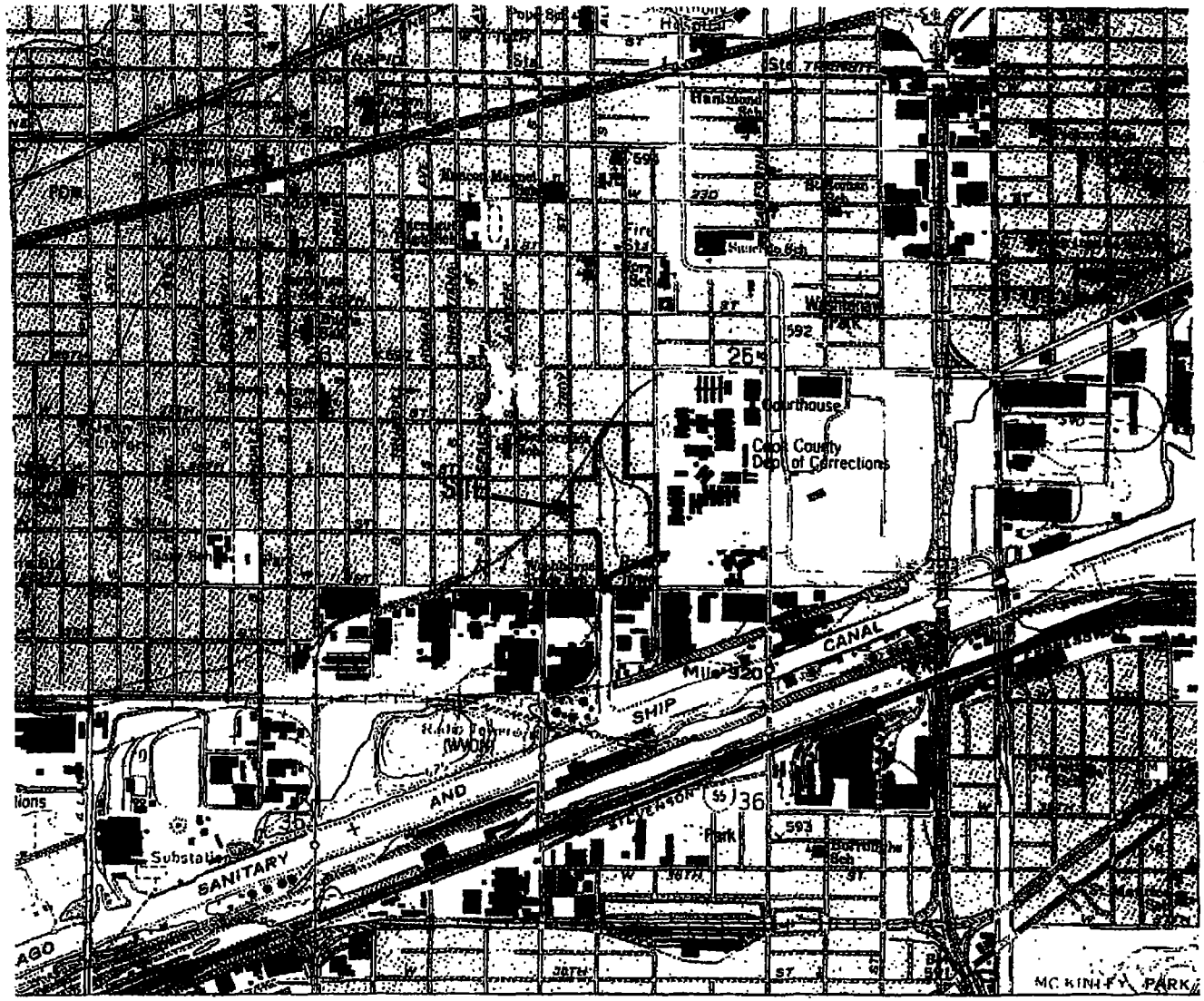
2800 South Sacramento
Chicago, Il

It is so ORDERED and Agreed this 16 day of AUGUST, 2006

BY: Richard C Karl

Richard C. Karl, Director
Superfund Division
United States Environmental Protection Agency
Region 5

APPENDIX A



VICINITY MAP

SOURCE: 7.5 MINUTE QUADRANGLE MAP OF ENGLEWOOD, IL. DATED 1963, PHOTOREVISED 1972 & 1980.

SITE PLAN

2000 0 2000

SCALE IN FEET

PARSONS ENGINEERING SCIENCE, INC.

SITE LOCATION MAP

AlliedSignal, Inc./The Celotex Corporation

FIGURE 1

p:\drawings\alliedsl\site.cdr

APPENDIX B

STATEMENT OF WORK

RESPONSE ACTIONS

I. PURPOSE

To implement the response actions for the Main Site detailed in U.S. EPA's March 7, 2005 Action Memorandum (Appendix C) in accordance with the Settlement Agreement.

II. TASKS

Task 1: Designate Contractor and Project Coordinator (see Settlement Agreement, Section VII, paragraphs 11, 12, and 14)

1. Contractor and Subcontractors

A. Respondent shall retain one or more contractors to manage the performance of the Work and shall notify U.S. EPA of the name(s) and qualifications of such contractor(s) within five (5) business days of the Effective Date of Settlement Agreement.

B. Respondent shall also notify U.S. EPA of the name(s) and qualification(s) of any other contractor(s) or subcontractor(s) retained to perform the Work at least five (5) business days prior to commencement of such Work.

C. U.S. EPA retains the right to disapprove of any or all of the contractors and/or subcontractors retained by Respondent. If U.S. EPA disapproves of a selected contractor, Respondent shall retain a different contractor and shall notify U.S. EPA of that contractor's name and qualifications within ten (10) business days of U.S. EPA's disapproval. If U.S. EPA disapproves of a selected contractor less than 10 days before an activity is scheduled to commence under this Statement of Work, the schedule for the subject activity and all subsequent activities shall be extended by 10 days.

D. The contractor must demonstrate compliance with ANSI/ASQC E-4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs" (American National Standard, January 5, 1995), by submitting a copy of the proposed contractor's Quality Management Plan ("QMP"). The QMP should be prepared consistent with "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B0-1/002), or equivalent documentation as required by U.S. EPA.

2. Project Coordinator

A. Within five (5) business days after the Effective Date of the Settlement Agreement, Respondent shall designate a Project Coordinator who shall be responsible for administration of all actions by Respondent required by the Settlement Agreement and shall submit to U.S. EPA the designated Project Coordinator's name, address, telephone number, and qualifications.

B. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site work.

C. U.S. EPA retains the right to disapprove of the designated Project Coordinator. If U.S. EPA disapproves of the designated Project Coordinator, Respondent shall retain a different Project Coordinator and shall notify U.S. EPA of that person's name, address, telephone number, and qualifications within 10 business days following U.S. EPA's disapproval.

D. Receipt by Respondent's Project Coordinator of any notice or communication from U.S. EPA relating to the Settlement Agreement shall constitute receipt by all Respondent.

Task 2: Work Plan Preparation

1. As specified in the Settlement Agreement, paragraph 16, within thirty (30) days of the effective date of the Settlement Agreement, Respondent shall prepare and submit to U.S. EPA a draft Removal Action Work Plan for the Main Site ("Work Plan"). The Work Plan shall specify all necessary Work. "Removal" as used herein has the meaning set forth in CERCLA, and does not refer to soil excavation. The Work Plan shall include the following specific planning / project management items (as applicable):

A. Detailed breakdown of all removal action tasks for the Main Site;

B. Detailed schedule for performance of all work tasks as well as submission of all required data and reports (the schedule will include, but not be limited to: contractor mobilization, procurement of access agreements; initiation and completion of each work task; duration of each work task; implementation of the deed restrictions; demobilization).

C. Survey and sampling plan: The gravel cover and the soils and other materials that may have been brought on the Main Site as cover material since the completion of the EECA, will be surveyed, sampled and sent to a laboratory for analyses. The estimated depth of these materials ranges from approximately one foot deep at the outer edges of the Main Site to approximately six feet deep at locations in the middle of the Main Site. This activity does not apply to the 2 acre portion of the Main Site owned by Monarch Asphalt.

D. Health and Safety Plan (see Settlement Agreement, paragraph 17);

E. Quality Assurance / Quality Control Plan (see Settlement Agreement, paragraph 18);

F. Post-Removal Site Control Plan (see Settlement Agreement, paragraph 19);

G. Main Site Cover Construction Plan (including side slopes)

H. Truck hauling routes.

l Topographic map (Respondent must prepare an accurate topographic map of the 24-acre Main Site in an appropriate working scale. The scale of the base map shall not be greater than 1 inch to 00 feet (1":100') and shall have 1-foot contour intervals (maximum). This map will represent pre-removal action conditions).

2. Specifically, the Work Plan must address (as applicable):

A. Placement of a two foot cover on the portion of the Main Site which does not already have a gravel cover. For those portions, if any, of the Main Site which currently have a gravel cover of less than two feet, Respondent shall add sufficient cover so as to create a two foot cover.

B. Placement of institutional controls on the Main Site to restrict the excavation of the cover for perpetuity; require current and future owners to maintain the integrity and minimum two-foot thickness of the cover, and prevent the future residential development and/or use of that property.

C. Submission of the final report (after completion of all removal actions required under the Settlement Agreement) (see Settlement Agreement, paragraph 20).

Task 3: Implementation of Work

1. In accordance with Section VIII, paragraph 16 (b) and (c) of the Settlement Agreement, the Respondent shall not commence any work until receiving U.S. EPA written approval.

2. The schedule for implementation of the various work activities will be in accordance with the schedule(s) detailed in the final, EPA-approved Work Plan.

3. It is expected that all data collected as part of the Work Plan shall be presented in tabular and graphic form (with detailed descriptions of the manner in which the data is manipulated). In addition, the Respondent shall also submit all data electronically, in accordance with the protocols at:

http://www.epa.gov/region5superfund/edman/index.html

4. The Work Plan will include a provision detailing the fact that U.S. EPA has the primary responsibility for Community Involvement at this Site and that the Respondent will provide support to U.S. EPA as requested by the U.S. EPA's Remedial Project Manager (RPM) and Community Involvement Coordinator (CIC) and will coordinate any activities through U.S. EPA's RPM and CIC.

Task 4: Reporting

1. As specified in the Settlement Agreement, paragraph 20, Respondent shall submit:

A. Written and electronic progress report to U.S. EPA on a monthly basis, until termination of the Settlement Agreement;

B. Three (3) hard copies of all plans and reports (unless otherwise specified by U.S. EPA's RPM);

2. Data shall also be submitted in the format and following the procedures specified at: http://www.epa.gov/region5superfund/edman/index.html

3. Within forty-five (45) days after completion of all removal/response actions required under the Settlement Agreement, the Respondent shall submit for EPA review and approval a final report (Removal Closeout Report) summarizing the actions taken to comply the Settlement Agreement. (See Settlement Agreement, Section VIII, paragraph 21). The report shall include (but not be limited to) description of all activities. This report shall also contain an updated topographic map that delineates Site conditions subsequent to completion of removal/response actions.

APPENDIX C

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION V

MEMORANDUM

DATE: MAR 0 7 2005

SUBJECT: **ENFORCEMENT ACTION MEMORANDUM** - Request for a Non-Time-Critical Removal Action at the 2800 South Sacramento Avenue Site, Chicago, Illinois

FROM: Thomas G. Williams
Remedial Project Manager

THRU: Linda M. Nachowicz, Chief
Emergency and Enforcement Response Branch

TO: Richard C. Karl, Director
Superfund Division

I. PURPOSE

The purpose of this action memorandum is to request and document approval of a non-time-critical removal action at the 2800 South Sacramento Avenue Site ("Site") located in Chicago, Illinois. The Site consists of both the 24-acre property on which the facility operations occurred (Main Site) and the residential area surrounding the 24-acre property at 2800 South Sacramento Avenue (Residential Area). The United States Environmental Protection Agency (U.S. EPA), has determined that the appropriate response action at the Main Site is the construction of a 24 inch minimum gravel cap over the 24-acre property and remediation of the polynuclear aromatic hydrocarbons (PAH)s in the Residential Area to 10 parts per million (ppm) (benzoapyrene equivalents). This action is necessary to abate the continuing imminent and substantial threat to public health and the environment from potential exposure to hazardous substances at the Main Site, including volatile organic carbons (VOC)s, and PAHs, along with PAHs in the Residential Area. The Agency has determined that this response action should be conducted as a removal due to the actual or potential exposure of nearby human populations to hazardous substances from the Site. Since at least a six-month planning period is available before on-Site activities must begin, however, the proposed action would be a non-time critical removal.

II. SITE CONDITIONS AND BACKGROUND

U.S. EPA's response at the Site will be a non-time critical action (CERCLIS ID# ILD051053692).

A. SITE DESCRIPTION

1. Removal Site Evaluation

A Removal Site Evaluation was performed on November 1,1993 by the On Scene Coordinator (OSC) and the Remedial Project Manager. Based on this inspection the OSC determined that a time critical removal was not warranted at the Main Site. The OSC determined for the Residential Area that corrective actions should be implemented to address potential health hazards from chronic exposure to residential soils contaminated with PAHs.

2. Physical Location

The Site is located on the west side of Sacramento Avenue between 31st Street and 27th Street (Figure 1). The United States Geological Survey (USGS) reference for the Site location indicates that it is situated in the West ½ of the Southwest 1/4 of Section 25, Township 39 North, Range 13 East of the Third Prime Meridian on the Englewood 7.5 Minute Quadrangle. The Site encompasses 24 acres; 22 acres of the property are owned by the Sacramento Corporation, and a 2-acre parcel to the south which is owned by the Palumbo Corporation et al.

The Site is situated amidst a multi-use area that includes residential, commercial, manufacturing, governmental, and industrial establishments. The Cook County Correctional Facility is located across from the Site, on the east side of Sacramento Avenue. Residential property/buildings and the Atkinson, Topeka & Santa Fe railroad line adjoin the Site along the north and west property boundaries. Residential homes are also located across from the north portion of the eastern property boundary (on the east side of Whipple Avenue). The south side of the Site is bounded by the No. 3050 Chicago Fire Department, the Bureau of Support Services, and by vacant land owned by the Palumbo Corporation et al. Residential homes are present on the west side of South Albany Avenue along the southwest quadrant of the Site. The Chicago Sanitary and Ship Canal is located approximately 1,500 feet south of the Site.

In Illinois, the low income percentage is 25 and the minority percentage is 27. To meet the Environmental Justice (EJ) criteria, the area within 1 mile of the Site must have a population that's twice the state low income percentage or/and twice the State minority percentage. That is, the area must be at least 50% low-income or 54% minority. At this site, the low income is 64% and the minority is 84% as determined by Arcview or Landview III EJ analysis. Therefore, this Site does meet the region's EJ criteria based on demographics identified in "Region 5 Interim Guidelines for Identifying and Addressing a Potential EJ Case, June 1998".

3. Site History

The Main Site formerly housed several manufacturing-related buildings including a large warehouse, smaller storage sheds, an enclosed tank area that included 35 storage tanks, and an office building. Manufacturing, storing and distribution of asphalt roofing products were conducted on the property from at least 1918 until 1982. All buildings have been demolished and removed from the Main Site. Most of the Main Site is covered with a 24 inch gravel cap over the 24-acre property with the exception of property owned by the Palumbo Corporation. The gravel

cap was placed on the Main Site in 1999 in conjunction with improving the drainage and sewer system.

In 1989 the Illinois Environmental Protection Agency (IEPA) completed a Preliminary Assessment. In 1991 and 1992, in order to gain information for Hazard Ranking System (HRS) Scoring, the IEPA conducted inspections and sampling at the Site, which resulted in submission of a Site Screening Inspection Report in September 1991 and an Expanded Site Inspection Report in 1992. These investigations included collection and analysis of 15 samples from residences near the property, a number of samples of highly contaminated materials on the property, and one sample of soil from the bank of the inlet to the Sanitary and Ship Canal near the pipeline from the Main Site. The analytical results indicated elevated levels of PAHs in both the Residential Area and the Main Site.

On September 20, 1996, and October 22, 1996, Allied Signal, now Honeywell, and Celotex, respectively entered into an Administrative Order by Consent (AOC) with the U.S. EPA, Region 5, pursuant to Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) to undertake actions to produce an Engineering Evaluation/Cost Analysis (EE/CA) to address contamination at the Main Site and Residential Areas.

Prior to the AOC in October 1996, ERM-North Central, Inc. (ERM) executed a residential area sampling program (hereinafter referred to as the Phase I Residential Area Sampling and Analysis Program (RASAP) on behalf of the Respondents. The Phase I RASAP encompassed over 100 soil samples collected from 57 residential properties located at varying distances from the Site. Composited surface soil samples were collected from each sampled property.

After the AOC was executed in November 1996, the first investigation program that was performed was the Main Site field investigation. Figure 2 shows the locations of the soil borings from which soil samples were collected during the Main Site field sampling program. In October 1997, a report entitled "Data Report for the Engineering Evaluation and Cost Analysis of the 2800 South Sacramento Avenue Site" (Data Report) was submitted to the U.S. EPA. This report presented the findings and analytical data generated from the Main Site investigation, and contained information on surrounding land use, and Site background. The data from the Main Site investigation also resulted in the generation of the report entitled "Main Site Risk Assessment for the 2800 South Sacramento Avenue Site," (Risk Assessment), October 1998. No additional investigatory activities have been performed at the Main Site.

Two phases of residential area investigation were performed after the execution of the Main Site field investigation program based on the "Residential Area Conceptual Work Plan," May 1997. The findings and analytical data from these investigations are presented in the " Phase II Residential Area Sampling Report," August 1998, and the "Phase III Residential Area Sampling Report,", June 1999.

4. Release or Threatened Release into the Environment of Hazardous Substances or Contaminants

The Data Report determined the following contaminants were found at high concentrations at the Main Site: VOCs and, PAHs. VOCs were highest at the southwest area of the Site at a depth of 0 to 0.5 feet at concentrations of 83 and 25 parts per million (ppm). At deeper depths that ranged from 8 to 18 feet the concentrations are much higher and are primarily located in the central west portion of the Site with a concentration as high as 862 ppm.. See Figures 3 and 4,

respectively. PAHs (benzoapyrene equivalents) at a depth of 0 to 0.5 feet were highest at the northern and southern areas of the Site with a concentration as high as 139 ppm. This trend continues at 1 to 2 feet with a concentration as high as 421 ppm. This trend continues at depths of primarily 8 to 10 feet with a concentration as high as 3,236 ppm. See Figures 5, 6, and 7.

Residential neighborhoods to the northeast of the Site are contaminated with PAHs. The neighborhood to the southeast has elevated levels of PAHs as well but will require additional sampling to determine whether or not it requires cleanup. Contamination in one of the residential yards to the northeast was as high as 473 ppm, PAHs. The contamination is highest in this neighborhood, because the highest windrose (the direction that the wind blows most frequently) is to the northeast. See Figure 8. The neighborhood four blocks west of the Main Site was sampled to determine PAH background concentrations for the residential neighborhoods. The high and low concentrations were 13.05 and 0.32, respectively. The mean value was determined to be 3 ppm plus or minus or 1 ppm. The background concentration was determined to be 4 or 5 ppm benzoapyrene equivalents because "spike" values in excess of 10 ppm were observed.

5. NPL Status

The Site is not currently on the National Priorities List (NPL). However, U.S. EPA collected data during previous investigations and the data indicated that the Site would score high enough on the Hazard Ranking System to qualify for listing on the NPL. The preliminary Hazard Ranking System site score of 77 was based on air, soil, and to a lesser extent surface water pathway to the Ship and Sanitary Canal.

B. Other Actions to Date

1. Previous Actions

U.S. EPA has conducted no prior removals at the Site. Illinois EPA conducted several small scale investigations and an Expanded Site Assessment. Based on this information and the October 1996, ERM-North Central Report on November 1, 1996, Allied Signal, now Honeywell, and Celotex entered into an AOC with the U.S. EPA to conduct an EE/CA.

2. Current Actions

Honeywell contracted with Parsons to perform an EE/CA which was released to the public in September 2004. On November 9, 2004 a public meeting was held at the Auditorium of the West Side Technical Institute, 2800 S. Western Avenue, Chicago, Il, to present the proposed Alternative, Alternative 2, which consists of 2 foot minimum gravel cap for the Main Site, along with institutional controls and Alternative 3 for the residential area which consists of remediating at least 32 homes to10 ppm benzoapyrene equivalents and institutional controls. Oral comments were taken at the meeting and written comments were accepted from October 26, 2004 until November 26, 2004. No change in the preferred Alternatives was made based on comments provided by Alderman Cardenas, and others.

C. Role of State and Local Authorities

1. State and Local Action to Date

As stated previously, Illinois EPA conducted several small scale investigations and an Expanded Site Assessment.

On June 11, 2004, a Health Consultation Report for the Site was released by the U.S. Department of Health and Human Services. The health investigation had been performed under a cooperative agreement between the Illinois Department of Health and the Agency for Toxic Substances and Disease Registry. The report recommended the following:

> That U.S. EPA remediate contaminated soil to reduce the potential for exposure. Residents in the area can reduce their exposure to the PAHs in the soil by maintaining good ground cover (e.g. grass), thoroughly washing any vegetables grown in the soil, washing hands, and removing shoes before entering the home to reduce tracking.

2. Potential for Continued State/Local Response

U.S. EPA expects IEPA will not assist in implementing the response actions proposed herein as well as any further action deemed necessary to control the release and potential release of hazardous constituents at the Site.

III. THREATS TO PUBLIC HEALTH or WELFARE and the ENVIRONMENT

In accordance with Section 300.415 (b)(2) of the National Contingency Plan, U.S. EPA must evaluate certain factors to determine if a removal action is the appropriate response to a situation involving hazardous substances. After analyzing the specific factors set forth below, U.S. EPA has concluded that a non-time critical removal action should be conducted to control the release of hazardous substances from the Site. U.S. EPA's actions are necessary to protect human populations, wildlife, and the environment.

A. Threats to Public Health or Welfare

The primary exposure pathways with the Main Site and Residential Area are direct contact (dermal and ingestion) with contaminated surface soil. Based on the findings of the Risk Assessment, estimated carcinogenic risks for each human receptor population were $7x10^{-4}$ for the Main Site and $1.8x10^{-4}$ for the Residential Area for dermal and ingestion exposure to contaminated soil.

Drinking water is not a problem because all residents are supplied water by the City of Chicago.

B. Threats to the Environment

No assessment was made for risks to the environment because of the highly urban nature of the Site.

IV. ENDANGERMENT DETERMINATION

Given the Site conditions, the nature of the hazardous substances on-Site, the continued potential release of these substances into the potential human pathway identified in the Risk Assessment, actual or threatened releases of hazardous substances from this Site may present an imminent and substantial endangerment to public health or welfare if not addressed by implementing the response action selected in this Action Memorandum.

V. PROPOSED ACTIONS AND ESTIMATED COSTS

A. Proposed Action

1. Proposed Action Description

The Proposed Action consists of a two foot minimum gravel cap for the Main Site and deed restrictions on the entire Main Site (to prevent residential development of the Main Site and to require all current and future owners to keep the gravel cover intact) and for the residential area, remediating at least 32 homes. Twenty-two acres of the 24 acre Main Site already has more than two feet of gravel on it. The two acres that doe not are the Palumbo property. At least two feet of gravel will be placed on this property to complete the remedy on the Main Site. Additional sampling will be performed in the residential area within the boundary set by Whipple Avenue, Sacramento Avenue, 28th Street and 26th Street. The purpose of this sampling is to determine whether contamination exceeds the cleanup goals of 10 ppm, benzo(a)pyrene equivalents. Remediation shall entail the removal of impacted soils down to a depth of 1 foot and replacement with clean soils. Soils removed from the impacted residential properties shall be disposed of at a U.S. EPA approved landfill. The residential area to the south west of the Main Site bounded by 28th Street, Troy Street, 31st Street and the western Main Site boundary will be sampled to determine if the PAH contamination can be linked to the Main Site. If PAH levels in the soil can be linked to the Main Site, then residential properties with soils that have concentrations of PAHs that exceed the cleanup objective of 10 ppm, benzo(a)pyrene equivalents shall be remediated as previously described.

The response actions described in this action memorandum directly address actual or threatened releases of hazardous substances, pollutants or contaminants at the Site which pose an imminent and substantial endangerment to human health and the environment. These response actions do not impose a burden on affected property. In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Section 117, U.S. EPA finalized the EE/CA in September 2004 and established a public comment period which ended on November 26, 2004 to allow interested parties to comment on the EE/CA. The Responsiveness Summary (Attachment III) documents the U.S. EPA's response to comments received during the comment period and at the November 9, 2004 public meeting. These comments were evaluated prior to, and were considered in the determination of, the non-time critical removal action for the Site.

2. Contribution to Remedial Performance

The proposed non-time critical removal action is expected to significantly reduce the long-term threats associated with the Site, including the threats of ingestion of, inhalation of, and direct contact with the hazardous substances at the Site.

Drinking water is not a problem because all residents are supplied water by the City of Chicago.

3. Description of Alternative Technologies

The EE/CA evaluated, based upon their relative technological and cost attractiveness, only two technologies for the Main Site, an engineered barrier or cap, and a cap along with hot spot removal. Three different types of covers were evaluated. The EE/CA only evaluated excavation and disposal for the Residential Area.

The following removal action technologies were evaluated in the EE/CA:

- Access Control, Main Site
- 1.5 foot Clay Cap, with 6 inch soil/ grass cover, Main Site
- 2 foot minimum gravel cover, Main Site
- Asphalt Cover, Main Site
- 3 - foot Clay Cover, with Hot Spot Removal, Main Site
- Excavation and Off-Site Disposal, Residential Area

4. Engineering Evaluation/Cost Analysis (EE/CA)

As noted in Section II.B.2, an EE/CA was released by U.S. EPA in September of 2004. When evaluating the most appropriate response for a site, an EE/CA must consider the criteria of effectiveness, implementability and cost. Based upon these criteria, sampling results and the Risk Assessment, a 2 foot gravel cover is the preferred Alternative for the Main Site. Remediation of the residential area will be to 10 ppm, benzo(a)pyrene equivalents.

All of the cover technologies reduce human health risk equally by creating a barrier that eliminates human health exposure if properly maintained. U.S. EPA anticipates that minimal maintenance will be required for the gravel cover. The human health risks eliminated by each of the cover technologies are direct contact, ingestion and inhalation of contaminants. The cost of the gravel cover alternative is $270,000 because 22 acres have already been covered with two feet of gravel. The 3 - foot Clay Cover, with Hot Spot Removal costs $48.6 million, the asphalt cover would cost $5.6 million, and the 1.5 foot clay cap, with 6 inches of soil/grass cover would cost $328,000. Therefore, the gravel cover alternative is the most cost-effective alternative. Furthermore excavation of the contamination at the Main Site would significantly disrupt the local neighborhood due to excessive truck traffic and other construction impacts.

EPA selected the cleanup level for removal of PAHs at the residential area based on the risk assessment. A cleanup level of 10 ppm will achieve a carcinogenic risk level to children ingesting or inhaling contaminants remaining in soils of 5.8×10^{-5}, well within the EPA's acceptable exposure levels for individuals as specified in the National Contingency Plan (40 CFR Section 430(e)). The background concentration in the Residential Area was determined to be approximately 5 ppm which has a correlating risk of 2.9×10^{-5}. The difference in the level of exposure risk between cleanup to 10 ppm and cleanup to background, 5 ppm, is only 2.9×10^{-5} and that difference is not statistically significant. However, the cost difference between the two action levels is significant ($420,000). Therefore, U.S. EPA selected a remediation level of 10 ppm because it is more cost-effective, less disruptive to the local area and it is protective of human health and the environment.

5. Applicable or Relevant and Appropriate Requirements (ARARs)

There are no ARARs which apply to the removal action at the Main Site. Pursuant to Section 300.415 (j) of the NCP, the disposal of the soil in the Residential Area will comply with Federal and State ARARs including RCRA's requirements regarding transportation of hazardous

waste and land disposal restrictions. Another TBC is Section 11-4-1500 of the Chicago Municipal Code that addresses waste management actions within the City of Chicago. A complete list of potential ARARs for the Site is provided in Table 3.1 through 3.4 of the EE/CA and is Attachment 5 to this Action Memorandum.

6. Project Schedule

Design and contractor procurement for the non-time critical removal action are expected to take approximately 12 months. The primary components of the non-time critical removal action are expected to be installed during approximately one six-month construction season.

7. Post-Removal Site Control

Consistent with Section 300.415 (l) of the NCP, it is anticipated that the Potentially Responsible Parties (PRP)s for the Site will perform all required post-removal site control activities required by the removal action, with EPA oversight.

B. Estimated Costs

Design	$ 220,799
Construction	
- Gravel Cap	$1,781,120
- Site Work	$ 426,867
- CM/CQA/Eng.	$ 555,196
O&M	$ 12,000
Contingency	$ 110,399
	$ 3,106,381

However, because only 2 acres of the 24 acre Main Site are not currently covered with gravel, the cost to cover the other 2 acres is estimated at $270,000.

Costs for the Residential Area are:

Design	$ 420,000
Construction	
- Contractor Mob	$ 24,000
- Soil Excavation	$ 100,000
- Place Soil	$ 44,000
- Plant Trees	$ 46,000
CM/CQA/Eng.	$ 226,000
Contingency	$ 20,000
	$ 880,000

VI. EXPECTED CHANGE IN THE SITUATION SHOULD THE ACTION BE DELAYED OR NOT TAKEN

If the proposed action is not taken or delayed, human receptors will continue to be exposed to PAH contamination.

VII. OUTSTANDING POLICY ISSUES

This response action implicates no outstanding policy issues.

VIII. ENFORCEMENT

The PRPs for the Site were identified early in the process. Honeywell has indicated a willingness to perform the removal. Information concerning the confidential enforcement strategy for this Site is contained in the Enforcement Confidential Addendum (Attachment II).

IX. RECOMMENDATION

This decision document represents the selected non-time critical removal action for the Site, located in Chicago, Illinois. This decision document was developed in accordance with CERCLA as amended by SARA; the selected response action is not inconsistent with the NCP. This decision is based on the Administrative Record for the Site. Attachment IV identifies the items that comprise the Administrative Record, upon which the selection of the non-time critical removal action is based.

Conditions at the Site meet the NCP Section 300.415(b)(2) criteria for a non-time critical removal. I recommend your approval of the proposed removal action.

APPROVE: Richard C Karl Date 3-7-05
Richard C. Karl, Director
Superfund Division

DISAPPROVE: _____ Date _____
Richard C. Karl, Director
Superfund Division

Attachments:
I. Site Location Figures
II. Enforcement Confidential Addendum
III. Responsiveness Summary
IV. Administrative Record Index
V. Table of ARARs

cc: David Chung, U.S. EPA, OEM
Mike Chezik, U.S. DOI