

RETURN TO:

**CLERK, CITY OF TROY
116 E. MARKET
TROY, IL 62294**

CITY OF TROY

RESOLUTION 2021 – 34

**A RESOLUTION OF THE CITY OF TROY, ILLINOIS, AUTHORIZING THE MAYOR
TO EXECUTE A HIGHWAY AUTHORITY AGREEMENT**

**ADOPTED BY THE CITY COUNCIL OF THE CITY OF TROY, ILLINOIS
THIS TWENTIETH DAY OF DECEMBER, 2021**

**CITY OF TROY
RESOLUTION NO. 2021 - 34**

**A RESOLUTION OF THE CITY OF TROY, ILLINOIS, AUTHORIZING THE MAYOR
TO EXECUTE A HIGHWAY AUTHORITY AGREEMENT**

WHEREAS, the City believes that it is in the best interest of the City and its citizens to enter into a Highway Authority Agreement with the owner(s) of 904 Edwardsville Rd. to assist said owner(s) in complying with Illinois Environmental Protection Agency requirements; and

WHEREAS, the City and said owner(s) have negotiated the terms and conditions of the Agreement attached hereto and incorporated herein as Exhibit A and the City believes that such terms and conditions are in the best interest of the health, safety and general welfare of its citizens.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL
OF THE CITY OF TROY, ILLINOIS, AS FOLLOWS:**

1. The recitals set forth above are hereby incorporated herein as if fully set forth.
2. The Mayor of the City of Troy, Illinois, is hereby authorized to execute and enter into the attached Highway Authority Agreement and is further authorized to take all actions and sign all documents necessary to fulfill the intent of this Resolution.
3. This Resolution shall be in effect following its passage, approval and publication as provided by law.

PASSED by the City Council of the City of Troy, Madison County, Illinois, approved by the Mayor, and deposited in the office of the City Clerk this 20th day of December, 2021.

Aldermen:

Dan Dawson	<u>AYE</u>	Sam Italiano	<u>AYE</u>	Ayes:	<u>7</u>
Tim Flint	<u>AYE</u>	Debbie Knoll	<u>AYE</u>	Nays:	<u>0</u>
Elizabeth Hellrung	<u>ABSENT</u>	Tony Manley	<u>AYE</u>	Absent:	<u>1</u>
Nathan Henderson	<u>AYE</u>	Troy Turner	<u>AYE</u>	Abstain:	<u>0</u>

APPROVED:

By: 

DAVID NONN, Mayor
City of Troy, Illinois

ATTEST:

By: 

KIMBERLY THOMAS, Clerk
City of Troy, Illinois

HIGHWAY AUTHORITY AGREEMENT

This Agreement is entered into this 20TH day of NOVEMBER, 2021 pursuant to 35 Ill. Adm. Code 742.1020 by and between (1) 904 Edwardsville LLC ("Property Owner") and (2) City of Troy ("Highway Authority"), collectively known as the "Parties."

WHEREAS, 904 Edwardsville LLC is the owner of the property located at 904 Edwardsville Road, Troy, Illinois ("the Site");

WHEREAS, as a result of releases of contaminants at the above-referenced Site ("the Releases"), soil and/or groundwater contamination at the Site exceeds the Tier 1 residential remediation objectives of 35 Ill. Adm. Code 742;

WHEREAS, the soil and/or groundwater contamination exceeding Tier 1 residential remediation objectives extends or may extend into the Highway Authority's right-of-way;

WHEREAS, the Property Owner is conducting corrective action in response to the Release;

WHEREAS, the Parties desire to prevent groundwater beneath the Highway Authority's right-of-way that exceeds Tier 1 remediation objectives from use as a supply of potable or domestic water and to limit access to soil within the right-of-way that exceeds Tier 1 residential remediation objectives so that human health and the environment are protected during and after any access;

NOW, THEREFORE, the Parties agree as follows:

1. The recitals set forth above are incorporated by reference as if fully set forth herein.
2. The Illinois Emergency Management Agency has assigned incident number(s) 1991-0733, 1991-3544, 1992-1236, and 2008-0172 to the Releases.
3. Attached as Exhibit A are scaled maps prepared by 904 Edwardsville LLC that show the Site and surrounding area and delineate the current and estimated future extent of soil and groundwater contamination above the applicable Tier 1 residential remediation objectives as a result of the Releases.
4. Attached as Exhibit B are tables prepared by 904 Edwardsville LLC that list each contaminant of concern that exceeds its Tier 1 residential remediation objective, its Tier 1 residential remediation objective and its concentrations within the zone where Tier 1 residential remediation objectives are exceeded. The locations of the concentrations listed in Exhibit B are identified on the maps in Exhibit A.

5. Attached as Exhibit C is a scaled map prepared by 904 Edwardsville LLC showing the area of the Highway Authority's right-of-way that is governed by this agreement ("Right-of-Way"). Because Exhibit C is not a surveyed plat, the Right-of-Way boundary may be an approximation of the actual Right-of-Way lines.
6. The Highway Authority stipulates it has jurisdiction over the Right-of-Way that gives it sole control over the use of the groundwater and access to the soil located within or beneath the Right-of-Way.
7. The Highway Authority agrees to prohibit within the Right-of-Way all potable and domestic uses of groundwater exceeding Tier 1 residential remediation objectives.
8. The Highway Authority further agrees to prohibit within the Right-of-Way future construction of a building in areas exceeding Tier 1 residential indoor inhalation remediation objectives unless that building has an approved building control technology installed pursuant to 35 IAC 742.1200.
9. The Highway Authority further agrees to limit access by itself and others to soil within the Right-of-Way exceeding Tier 1 residential remediation objectives. Access shall be allowed only if human health (including worker safety) and the environment are protected during and after any access. The Highway Authority may construct, reconstruct, improve, repair, maintain and operate a highway upon the Right-of-Way, or allow others to do the same by permit. Prior to taking any such action, the Highway Authority will first give Property Owner written notice, unless there is an immediate threat to the health or safety to any individual or to the public, that it intends to perform a site investigation in the Right-of-Way and remove or dispose of contaminated soil or groundwater to the extent necessary for its work.
Failure to give notice is not a violation of this Agreement. The removal or disposal shall be based upon the site investigation (which may be modified by field conditions during excavation), which Property Owner may review or may perform, if requested to do so by the Highway Authority. If practicable, as determined by the Highway Authority, the Highway Authority may request Property Owner to remove and dispose of the contaminated soil and/or groundwater necessary for the Highway Authority's work in advance of that work.
The Property Owner shall reimburse the reasonable costs incurred by the Highway Authority to perform the site investigation and to dispose of any contaminated soil or groundwater, provided, however, that if notice to the Property Owner has not been given and there was no immediate threat to health or safety, reimbursement for those costs shall be limited to \$10,000.00. There is a rebuttable presumption that the contaminants found in the highway Right-of-Way arose from the release of contaminants from the Site. Should Property Owner not reimburse the reasonable costs under the conditions set forth herein, this Agreement shall be null and void, at the Highway Authority's option, upon

written notice to Property Owner by the Highway Authority that those costs have not been reimbursed, Property Owner may cure that problem within twenty (20) working days by making payment, or may seek to enjoin that result. The Highway Authority agrees to issue all permits for work in the Right-of-Way, and make all existing permits for work in the Right-of-Way, subject to the following or a substantially similar condition:

As a condition of this permit, the permittee shall request the office issuing this permit to identify sites in the Right-of-Way where a Highway Authority Agreement governs access to soil that exceeds the Tier 1 residential remediation objectives of 35 Ill. Adm. Code 742. The permittee shall take all measures necessary to protect human health (including worker safety) and the environment during and after any access to such soil.

10. This agreement shall be referenced in the Agency's no further remediation determination issued for the Releases.
11. The Agency shall be notified of any transfer of jurisdiction over the Right-of-Way at least 30 days prior to the date the transfer takes effect. This agreement shall be null and void upon the transfer unless the transferee agrees to be bound by this agreement as if the transferee were an original party to this agreement. The transferee's agreement to be bound by the terms of this agreement shall be memorialized at the time of transfer in a writing ("Rider") that references this Highway Authority Agreement and is signed by the Highway Authority, or subsequent transferor, and the transferee.
12. This agreement shall become effective on the date the Agency issues a no further remediation determination for the Releases. It shall remain effective until the Right-of-Way is demonstrated to be suitable for unrestricted use and the Agency issues a new no further remediation determination to reflect there is no longer a need for this agreement, or until the agreement is otherwise terminated or voided.
13. In addition to any other remedies that may be available, the Agency may bring suit to enforce the terms of this agreement or may, in its sole discretion, declare this agreement null and void if any of the Parties or any transferee violates any term of this agreement. The Parties or transferee shall be notified in writing of any such declaration.
14. This agreement shall be null and void if a court of competent jurisdiction strikes down any part or provision of the agreement.
15. This agreement supersedes any prior written or oral agreements or understandings between the Parties on the subject matter addressed herein. It may be altered, modified or amended only upon the written consent and agreement of the Parties.

16. Any notices or other correspondence regarding this agreement shall be sent to the Parties at following addresses:

Manager, Division of Remediation Management
Bureau of Land
Illinois Environmental Protection Agency
P.O. Box 19276
Springfield, IL 62974-9276

904 Edwardsville LLC
900 Carnegie Street
Rolling Meadows, Illinois 60008
Attn: Gregory Yurovsky

Mr. Rob Hancock
City of Troy - Director of Public Works
116 E. Market Street
Troy, Illinois 62294

IN WITNESS WHEREOF, the Parties have caused this agreement to be signed by their duly authorized representatives.

Highway Authority City of Troy

Date: 11.23.21 By: 

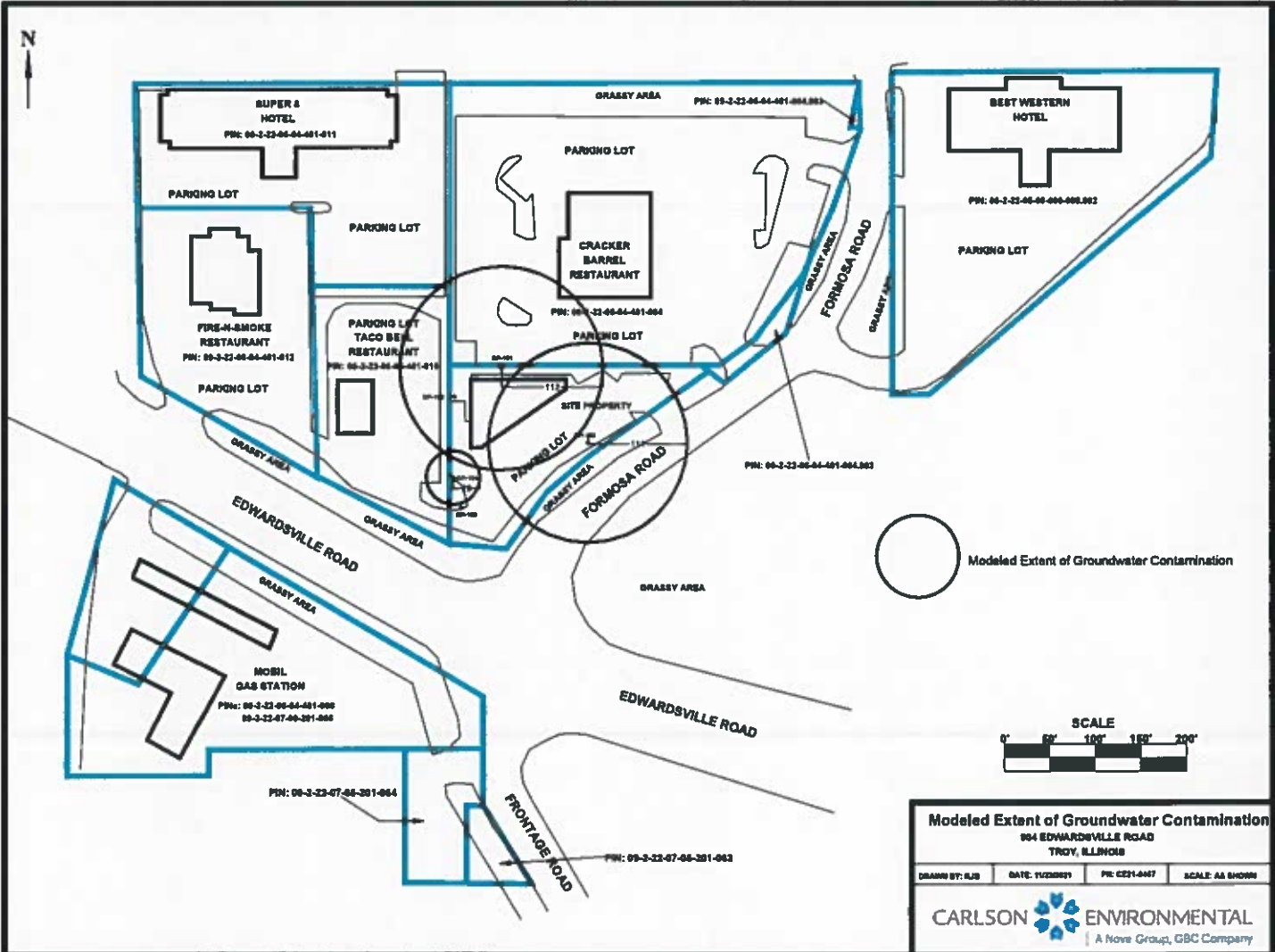
Its: MAYOR

Property Owner – 904 Edwardsville LLC

Date: _____ By: _____

Gregory Yurovsky
904 Edwardsville LLC

EXHIBIT A



SUPER 8 HOTEL
 PIN: 09-3-23-06-04-001-011

BEST WESTERN HOTEL
 PIN: 09-3-23-06-04-004-002.002

CRACKER BARREL RESTAURANT
 PIN: 09-3-23-06-04-001-004

FIRE-N-SMOKE RESTAURANT
 PIN: 09-3-23-06-04-001-012

PARKING LOT TACO BELL RESTAURANT
 PIN: 09-3-23-06-04-001-011

EDWARDSVILLE ROAD

FORMOSA ROAD

EDWARDSVILLE ROAD

MOBIL GAS STATION
 PIN: 09-3-23-06-04-001-005
 09-3-23-07-06-201-005

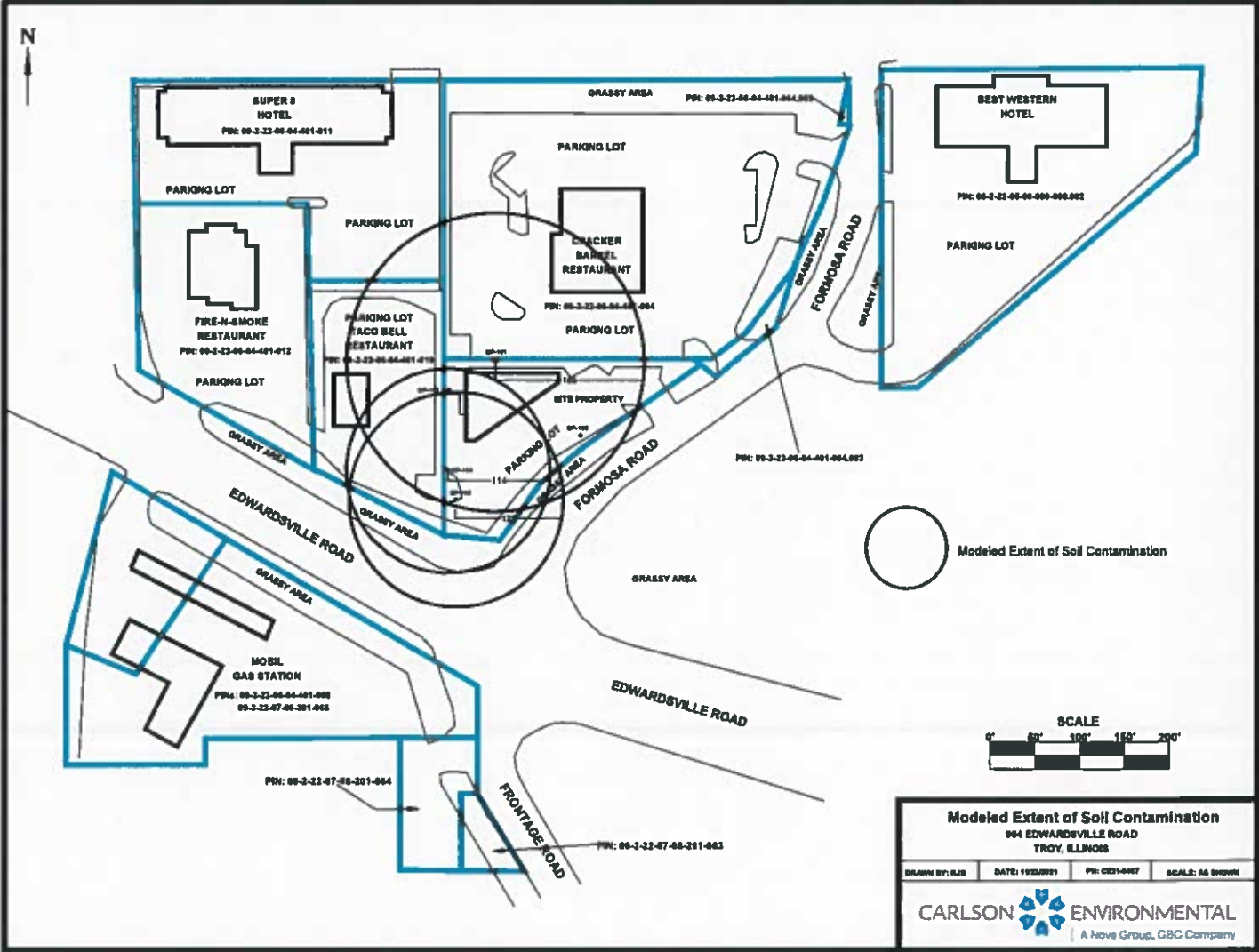
PIN: 09-3-23-07-06-201-004

PIN: 09-3-23-07-06-201-003

FRONTAGE ROAD

Modeled Extent of Groundwater Contamination





N

SUPER 8 HOTEL
 PIN: 00-3-23-00-04-001-011

PARKING LOT

FIRE-N-SMOKE RESTAURANT
 PIN: 00-3-23-00-04-001-012

PARKING LOT

PARKING LOT

PARKING LOT FACO BELL RESTAURANT
 PIN: 00-3-23-00-04-001-013

CRACKER BARREL RESTAURANT
 PIN: 00-3-23-00-04-001-004

PARKING LOT

SITE PROPERTY

PARKING LOT

EDWARDSVILLE ROAD

FORMOSA ROAD

PIN: 00-3-23-00-04-001-004.003

BEST WESTERN HOTEL
 PIN: 00-3-23-00-04-000-000.002

PARKING LOT

EDWARDSVILLE ROAD

GRASSY AREA

MOBIL GAS STATION
 PIN: 00-3-23-00-04-001-000
 00-3-23-07-00-201-005

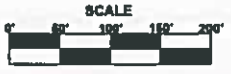
PIN: 00-3-23-07-00-201-004

EDWARDSVILLE ROAD

FRONTAGE ROAD

PIN: 00-3-23-07-00-201-003

Modeled Extent of Soil Contamination



Modeled Extent of Soil Contamination
 904 EDWARDSVILLE ROAD
 TROY, ILLINOIS

DRAWN BY: GJB	DATE: 1/23/2011	PN: 0214-047	SCALE: AS SHOWN
CARLSON ENVIRONMENTAL A Novus Group, GBC Company			

EXHIBIT B

TABLE 1: Soil Results - Benzene and Naphthalene
 904 Edwardsville Road
 Troy, Illinois

All concentrations are expressed in milligrams per kilogram (mg/kg)

ANALYTE	IEPA TIER 1 REMEDIATION OBJECTIVE					Sample Number, Sample Date, and Sample Depth (ft bgs)							
	Ingestion ¹	Outdoor Inhalation ¹	Construction Ingestion	Construction Inhalation	Migration to Class I Groundwater ²	B-101B	B-101E	B-102E	B-104B	B-104D	B-105B	B-105D	B-106D
						11/01/2021	11/01/2021	11/01/2021	11/01/2021	11/01/2021	11/01/2021	11/01/2021	11/01/2021
						2-4	8-10	8-10	2-4	6-8	2-4	6-8	6-8
Benzene	12	0.8	2,300	2.2	0.03	< 0.0046	1.3	< 0.025	0.20	0.23	0.073	0.29	< 0.027
Naphthalene	1,600	170		1.8	12	<0.040	0.56	NR	5.0	NR	17	4.6	NR

Notes:
 NR - Not Reported/Analyzed

Refer to the laboratory reports for a complete listing of the analyses performed, the EPA analytical methods used, and the detection limits. Concentrations exceeding the most stringent IEPA SROs appear in boldface and underlined.

¹ The sample concentrations were compared to the most stringent of the IEPA TACO Tier 1 Soil Remediation Objectives, for Residential Properties, for Ingestion and Outdoor Inhalation Exposure Route-Specific Values.

² The sample concentrations were compared to the IEPA TACO Tier 1 Soil Remediation Objectives for the Soil Component of the Groundwater Ingestion Exposure Route Values with Class II Groundwater ("migration to groundwater").

TABLE 4: Groundwater Results - VOCs
 904 Edwardsville Road
 Troy, Illinois

All concentrations are expressed in milligrams per liter (mg/L)

ANALYTE	IEPA TIER 1 REMEDIATION OBJECTIVE		Sample Number and Sample Date				
	Class I Groundwater Ingestion ¹	Indoor Inhalation ²	B-101W	B-102W	B-104W	B-105W	B-106W
			11/01/21	11/01/21	11/01/21	11/01/21	11/01/21
Benzene	0.005	0.11	0.38	< 0.0050	0.015	0.0055	< 0.0050
1,2-Dichloroethane	0.005	0.054	0.0094	NR	NR	NR	NR
MTBE	0.07	1,900	0.0090	< 0.0050	< 0.0050	< 0.0050	0.17
Naphthalene	0.14	NE	0.16	0.096	0.072	0.11	< 0.015

Notes:

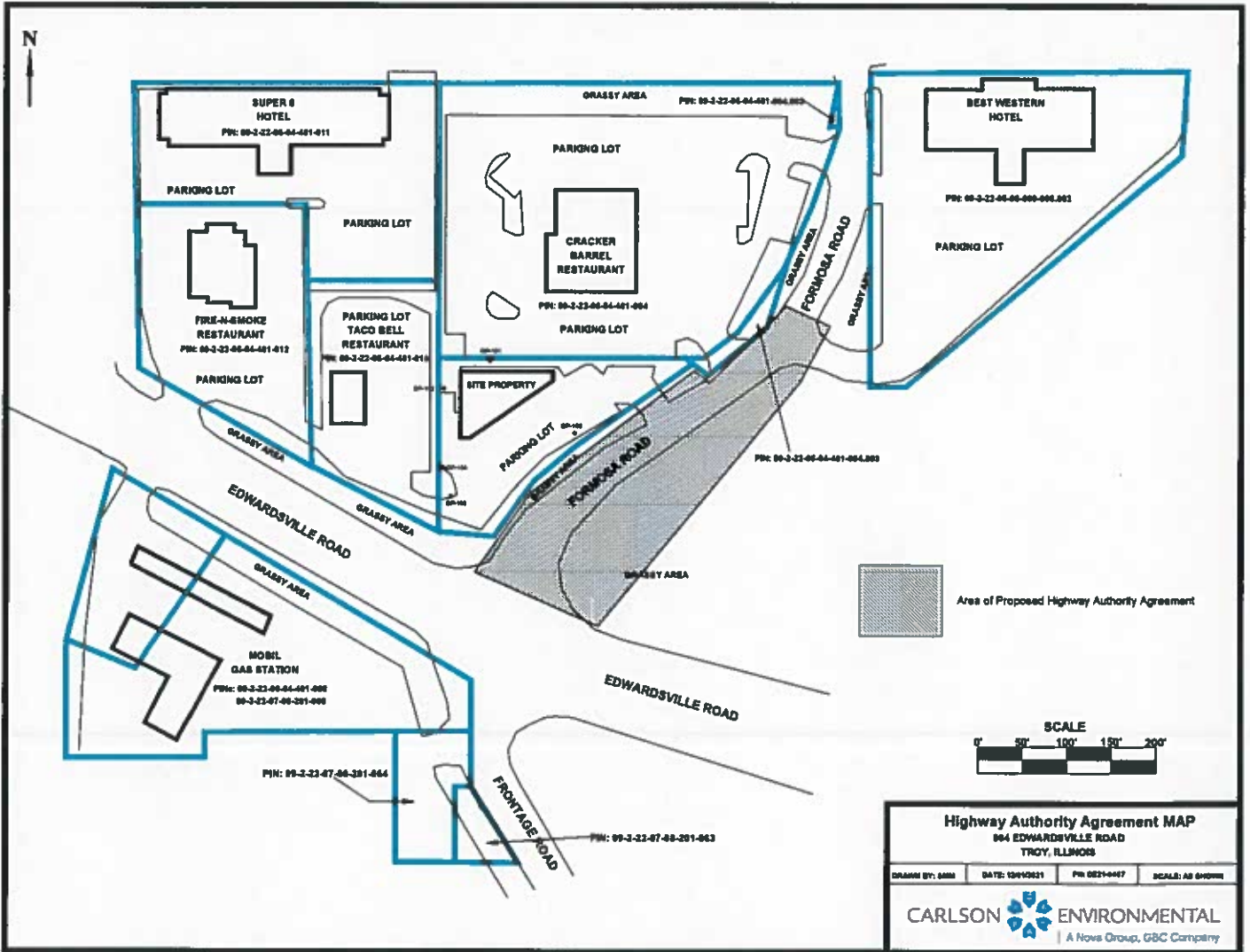
NR - Not Reported/Analyzed

Refer to the laboratory reports for a complete listing of the analyses performed, the EPA analytical methods used, and the detection limits. Samples exceeding the most stringent Tier 1 GROs appear in boldface and underlined.

¹ The sample concentrations were compared to the most stringent of the IEPA TACO Tier 1 Groundwater Remediation Objectives for the Groundwater Component of the Groundwater Ingestion Route.

² The sample concentrations were compared to the IEPA TACO Tier 1 Groundwater Remediation Objectives for the indoor inhalation exposure route for residential properties, considering both diffusion and advection (Table H).

EXHIBIT C



SUPER 8 HOTEL
PK: 00-3-22-06-04-401-004.003

BEST WESTERN HOTEL
PK: 00-3-22-06-04-000-000.001

CRACKER BARREL RESTAURANT
PK: 00-3-23-06-04-401-004

FIRE-N-SMOKE RESTAURANT
PK: 00-3-23-06-04-401-412

PARKING LOT TACO BELL RESTAURANT
PK: 00-3-22-06-04-401-411

MOBIL GAS STATION
PK: 00-3-23-06-04-401-008
00-3-23-07-00-201-000

PK: 00-3-23-07-00-301-004

PK: 00-3-23-07-00-201-003

PK: 00-3-23-06-04-401-004.003