

Exhibit I

- Disclaimer -

All of the following matters are provided as a matter of convenience only, and the City of Oakland Park (the “City”) makes nor representations or warranties as to accuracy or completeness. No right of reliance with respect to the information discussed or referenced below is granted or imputed or may be implied by any party in receipt of, or filing a response to this RFQ. It shall be the proposer’s responsibility to independently review the information discussed or referenced below and verify any and all corresponding statements herein. The City disclaims any and all responsibility and/or liability for any findings, conclusions, or recommendations rendered by, on behalf of, or to any proposer as a result of any information contained in this Exhibit.

- Environmental History -

Although there are 9 parcels comprising the redevelopment site, project information in the City’s possession as of the date of this RFQ indicates that actual contamination has only been documented at the larger of the two parcels on the northern lot, Folio No. 494223000470, which was historically operated as Bennett Auto Supply (“BAS”). Contamination may or may not exist on the second of the two parcels located on the northern lot and on any of the seven parcels located on the southern lot. It will be the proposer’s obligation to investigate accordingly.

The earliest regulatory record for the north lot on file with the Florida Department of Environmental Protection (“FDEP”) through its online document portal is a Storage Tank Registration/Notification Form for BAS, dated December 26, 1984, which noted the presence of one 3,000 gallon unleaded gasoline underground storage tank (“UST”).¹ A closure license for this UST was subsequently issued by FDEP on September 15, 1988.

On December 30, 1988, J.E. Brenman Consulting Engineers, Inc., on behalf of BAS filed an application with FDEP to enter the facility into the Early Detection Incentive Program for the purposes of obtaining petroleum contamination remediation funding assistance. FDEP approved the application on March 9, 1990. According to an FDEP interoffice memo dated December 22, 1992, contaminated soil was removed from the BAS site during installation of utilities along Dixie Highway by the Florida Department of Transportation (“FDOT”). The memo also identifies the general location of the area of excavation; however, the quality of the corresponding map is poor, and no definitive conclusions can be made in this regard. On June 2, 2008, FDEP reviewed the contamination related data for purposes of giving the cleanup a priority score and determining when remediation funding would become available. The score given to the site was 10, a very low score, which guaranteed that remediation funding would likely not be available for an extended period of time (as of the date of this RFQ, it’s still not available).

An FDEP Storage Tank Facility Closure Site Inspection Report (“FCSIR”) dated June 12, 2008, reflected the removal of three 3,000 gallon USTs, one 1,000 gallon UST, and one 500 gallon UST. Strong odors were noted from the excavation area with a “foamy type sludge floating on the top of the groundwater.” A “very minor sheen” was also observed. The report further noted that a new sewer pipeline was “scheduled to be placed in this area” and that the “City of Oakland Park now owns this property.” Pictures of the five removed tanks and the excavation area were included with the FCSIR. There is a seven year gap in FDEP’s online file at this point, which picks up again in 2015 with a Low-Scored Site Initiative (“LSSI”) Contractor Selection Sheet identifying Handex Consulting & Remediation-SE, LLC (“Handex”), as the FDEP-approved contractor for the BAS cleanup.

¹ The FDEP Facility Identification Number for the Property is 06-8622446.

On May 29, 2015, Handex issued a proposal to FDEP to conduct limited soil and groundwater testing in the area of the five former USTs. FDEP approved the Handex proposal on August 6, 2015, and authorized installation and sampling of six new groundwater monitoring wells and advancement and analysis of up to twenty-eight soil borings. On December 23, 2015, Handex issued an LSSI Site Assessment Report (“SAR”). A summary of the findings in the SAR is as follows:

- On August 26 and 27, 2015, twenty-five soil borings were installed to a depth of eight feet below land surface (“BLS”) and analyzed for the presence of petroleum related vapors. Four of the twenty-five samples were sent to a laboratory for chemical analysis. Of the four, two contained petroleum related chemicals above their applicable Cleanup Target Levels.
- Six groundwater monitoring wells were installed to a depth of fifteen feet BLS on August 27, 2015. On August 31, 2015, groundwater samples were collected from each of the six wells and sent to a laboratory for chemical analysis. All six wells contained petroleum related chemicals above their applicable Cleanup Target Levels.
- Based on the findings, Handex recommended “further assessment and active remediation.”

On January 8, 2016, FDEP issued correspondence deeming the LSSI SAR “satisfactory and complete” and stated as follows:

“[We] agree with the recommendation by Handex to place this site back into priority score funding order. This is due to groundwater impacts above the Natural Attenuation Default Concentrations in close proximity to the property boundary and the existence of soil contamination that exceeds leachability and direct exposure.”

On February 2, 2016, a memo was entered into the FDEP file stating that the “facility address has been updated per property appraiser.” The new address noted was 3855 North Dixie Highway.

An “Initial Notice of Contamination beyond Property Boundaries” was executed for the former BAS site by an FDEP contractor on dated January 28, 2016. Notwithstanding the title of the form, off-site migration of contamination appears only suspected at this point and not, by virtue of any document in the FDEP online file, confirmed.

On February 26, 2016, FDEP issued two separate letters to Broward County Public Works Dept-Road & Bridge Div to advise that “the DEP has received information that pollutants were found in the groundwater at properties in your area.” Each letter enclosed the same data set for contamination analysis at the former BAS site. The first such letter referenced the NE 39th Street Right-of-Way and the second the NE 39th Street Right-of-Way. On the same day, copies of the two letters transmitted to Broward County were also provided to the City of Oakland Park under separate cover.

THE GOLDSTEIN ENVIRONMENTAL LAW FIRM, P.A.
Brownfields, Transactions, Due Diligence, Development, Permitting, Cleanups & Compliance

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MEMORANDUM

TO: Mr. David Herbert, City Manager
FROM: Michael R. Goldstein, Esq.
DATE: August 24, 2017
SUBJECT: Analysis of Brownfield Area Designation Eligibility for North Dixie Highway RFQ Parcels

On July 24, 2017, The Goldstein Environmental Law Firm, P.A. (the “Firm”) was engaged by the City of Oakland Park (the “City”) to evaluate the eligibility of several parcels of land owned by the City and bounded on the east by North Dixie Highway, the south by NW 37th Street, the west by NE 11th Avenue, and the north by NE 39th Street (the “Redevelopment Site”) to be designated a Brownfield Area¹ under Fla. Stat. § 376.80. The Redevelopment Site is currently targeted by the City for investment by the private sector as part of a forthcoming Request for Qualifications (the “RFQ”). Designating the Redevelopment Site a Brownfield Area is consistent with the focus in the 2017 – 2022 Oakland Park Community Redevelopment Agency Strategic Plan on seeking out innovate private partnerships that are founded on smart growth principles.²

The City desires that the Brownfield Area designation be in place prior to completion of the RFQ process so that interested developers can reliably incorporate certain statutory based incentives available under Florida’s Brownfields Redevelopment Act (the “Act”) into their regulatory and liability risk analysis as well as their financial models. It is believed that effectuating such a designation will result in stronger proposals with greater access to regulatory certainty, liability protection, capital sources, and lender acceptability. This memorandum provides a summary of the operational history, environmental conditions, and regulatory status of the Redevelopment Site, the eligibility criteria applicable to designating the Redevelopment Site a Brownfield Area, and a recommendation for bringing the designation before the City Council for consideration.

¹ Fla. Stat. § 376.79(5) defines the term “brownfield area” to mean “a contiguous area of one or more brownfield sites, some of which may not be contaminated, and which has been designated by a local government by resolution.” In turn, Fla. Stat. § 376.79(4) defines the term “brownfield site” to mean “real property, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental contamination.” See Exhibit A. As we discuss in detail below, the Redevelopment Site qualifies under both definitions.

² For a comprehensive discussion on the connection between restoration and redevelopment of brownfield sites and smart growth planning principles, please review the materials maintained by the U.S. Environmental Protection Agency Office of Smart Growth here: <https://www.epa.gov/smartgrowth/smart-growth-brownfields-and-infill-development>.

I. The Redevelopment Site

The Redevelopment Site is comprised of two lots in Oakland Park, oriented north and south. The north lot consists of 0.91 acres and contains two parcels, Folio Nos. 494223000470³ and 494223150010.⁴ The south lot consists of 1.16 acres and contains seven parcels, Folio Nos. 4942231500062,⁵ 494223150070,⁶ 494223150060,⁷ 494223150050,⁸ 494223150040,⁹ 494223150030,¹⁰ and 494223150020.¹¹ The north lot and south lot are bisected by NE 38th Street.¹² The address that was used historically to refer to the north lot is 3869 N. Dixie Highway. Based on our review of the Broward County Property Appraiser's Website, there appear to be no street addresses assigned to any of the parcels associated with the south lot. Both the north and south lots are currently vacant.

II. Operational & Environmental History Associated with the Project

Although there are 9 parcels comprising the Redevelopment Site, all the project information reviewed by the Firm to date indicates that actual contamination has only been documented at the larger of the two parcels on the northern lot, Folio No. 494223000470, which was historically operated as Bennett Auto Supply ("BAS").¹³ Contamination may or may not exist on the second of the two parcels located on the northern lot and on any of the seven parcels located on the southern lot; however, the mere proximity to the former BAS facility in combination with the documentation of actual contamination there (which we discuss in more detail in the following paragraphs) creates, in the Firm's opinion, a perception of contamination associated with the parcels located at the southern lot that will likely complicate future expansion, redevelopment, and reuse activities.¹⁴

³ The City acquired this site from Harold D. Bennett and Barry E. Bennett as Co-Trustees by Trustees Deed on December 13, 2001.

⁴ The City acquired this site from Dannilo Ramos Oliveira by Warranty Deed on June 6, 2003.

⁵ The City acquired this site from Gerasimos Solomos and Nikolaos Solomos by Warranty Deed on May 10, 2002.

⁶ The City acquired this site from David John Hochstrasser and Ann R. Hochstrasser by Warranty Deed on November 29, 2001.

⁷ The City acquired this site from Crown Dixie 1 LC by Warranty Deed on December 13, 2002.

⁸ The City acquired this site from Crown Dixie 1 LC by Warranty Deed on December 13, 2002.

⁹ The City acquired this site from Gerasimos Solomos and Nikolaos Solomos by Warranty Deed on May 10, 2002.

¹⁰ The City acquired this site from Gerasimos Solomos and Nikolaos Solomos by Warranty Deed on May 10, 2002.

¹¹ The City acquired this site from David John Hochstrasser and Ann R. Hochstrasser by Warranty Deed on November 29, 2001.

¹² See Exhibit B.

¹³ A Phase I Environmental Site Assessment Report prepared for the City for the BAS property by Craig Smith & Associates, dated May 30, 2001, stated that the business "utilized the facility as a distribution center for automobile parts since the early 1980's. As of the date of the Phase I, the property was "vacant for approximately six months."

¹⁴ Accordingly, and pursuant to the definition of the term "brownfield site" as set forth at Fla. Stat. § 376.79(4), it is appropriate to include the southern lot parcels in the area to be designated.

The earliest regulatory record for the north lot on file with the Florida Department of Environmental Protection (“FDEP”) through its online document portal is a Storage Tank Registration/Notification Form for BAS, dated December 26, 1984, which noted the presence of one 3,000 gallon unleaded gasoline underground storage tank (“UST”).¹⁵ A closure license for this UST was subsequently issued by FDEP on September 15, 1988.

On December 30, 1988, J.E. Brenman Consulting Engineers, Inc., on behalf of BAS filed an application with FDEP to enter the facility into the Early Detection Incentive Program for the purposes of obtaining petroleum contamination remediation funding assistance. FDEP approved the application on March 9, 1990.¹⁶

According to an FDEP interoffice memo dated December 22, 1992, contaminated soil was removed from the BAS site¹⁷ during installation of utilities along Dixie Highway by the Florida Department of Transportation (“FDOT”). The memo also identifies the general location of the area of excavation; however, the quality of the corresponding map is poor and not definitive conclusions can be made in this regard.¹⁸ On June 2, 2008, FDEP reviewed the contamination related data for purposes of giving the cleanup a priority score and determining when remediation funding would become available. The score given to the site was 10,¹⁹ a very low score, which guaranteed that remediation funding would likely not be available for an extended period of time (it’s still not available).

An FDEP Storage Tank Facility Closure Site Inspection Report (“FCSIR”) dated June 12, 2008,²⁰ reflected the removal of three 3,000 gallon USTs, one 1,000 gallon UST, and one 500 gallon UST. Strong odors were noted from the excavation area with a “foamy type sludge floating on the top of the groundwater.” A “very minor sheen” was also observed. The report further noted that a new sewer pipeline was “scheduled to be placed in this area” and that the “City of Oakland Park now owns this property.” Pictures of the five removed tanks and the excavation area were included with the FCSIR.²¹

At this point there is a seven year gap in FDEP’s online file, which picks up again in 2015 with a Low-Scored Site Initiative (“LSSI”) Contractor Selection Sheet identifying Handex Consulting & Remediation-SE, LLC (“Handex”), as the FDEP-approved contractor for the BAS cleanup. Selection of Handex by FDEP was ratified by the City administratively on May 7, 2015.

On May 29, 2015, Handex issued a proposal to FDEP to conduct limited soil and groundwater testing in the area of the five former USTs. FDEP approved the Handex proposal on August 6, 2015, and authorized installation and sampling of six new groundwater monitoring wells and advancement and analysis of up to

¹⁵ The FDEP Facility Identification Number for the Property is 06-8622446.

¹⁶ See [Exhibit C](#).

¹⁷ A total of approximately 140 tons of soil was transported to a Rinker Material facility for incineration; however, not all such soil was contaminated. Due to an oversight by FDOT’s contractor, clean and contaminated soils were commingled during excavation activities. Moreover, excavation of impacted soil only extended to the depth needed to install utilities and not to the water table. It follows that an unknown volume of contaminated soil remains at the property.

¹⁸ See [Exhibit D](#).

¹⁹ See [Exhibit E](#).

²⁰ See [Exhibit F](#).

²¹ The pictures can be found in [Exhibit F](#).

twenty-eight soil borings. On December 23, 2015, Handex issued an LSSI Site Assessment Report (“SAR”). A summary of the findings in the SAR is as follows:

- On August 26 and 27, 2015, twenty-five soil borings were installed to a depth of eight feet below land surface (“BLS”)²² and analyzed for the presence of petroleum related vapors. Four of the twenty-five samples were sent to a laboratory for chemical analysis. Of the four, two contained petroleum related chemicals above their applicable Cleanup Target Levels.²³
- Six groundwater monitoring wells were installed to a depth of fifteen feet BLS on August 27, 2015. On August 31, 2015, groundwater samples were collected from each of the six wells and sent to a laboratory for chemical analysis. All six wells contained petroleum related chemicals above their applicable Cleanup Target Levels.²⁴
- Based on the findings, Handex recommended “further assessment and active remediation.”

On January 8, 2016, FDEP issued correspondence deeming the LSSI SAR “satisfactory and complete”²⁵ and stated as follows:

“[We] agree with the recommendation by Handex to place this site back into priority score funding order. This is due to groundwater impacts above the Natural Attenuation Default Concentrations in close proximity to the property boundary and the existence of soil contamination that exceeds leachability and direct exposure.”

On February 2, 2016, a memo was entered into the FDEP file stating that the “facility address has been updated per property appraiser.” The new address noted was 3855 North Dixie Highway.

The final document entered into FDEP’s online file for the as of the date of this memorandum is a form entitled, “Initial Notice of Contamination beyond Property Boundaries” and dated January 28, 2016. Notwithstanding the title of the form, it is noted that off-site migration of contamination is only suspected at this point and not confirmed.

III. Brownfield Area Designation Criteria

Designations of Brownfield Areas in Florida are governed by the provisions of Fla. Stat. § 376.80, which creates mandatory obligations for local governments.²⁶ See, e.g., Fla. Stat. § 376.80(1)(a) (“The local government with jurisdiction over a proposed brownfield area shall designate such area pursuant to this section.”) The Act creates a two-tiered process, recognizing a distinction between designations that are brought forward by the jurisdictional local government itself and those brought forward by any other non-governmental party. Compare Fla. Stat. § 376.80(1)(b)1, and § 376.80(1)(b)2. Within the self-designation process established for jurisdictional local governments, the Act recognizes yet another distinction – sites to

²² A map showing all soil boring and groundwater monitoring well locations can be found at [Exhibit G](#).

²³ A map showing the soil analytical results superimposed over soil boring locations can be found at [Exhibit H](#).

²⁴ A map showing the groundwater analytical results superimposed over monitoring well locations can be found at [Exhibit I](#).

²⁵ See [Exhibit J](#).

²⁶ See [Exhibit K](#).

be designated that lie within specified redevelopment areas versus those outside such areas. See Fla. Stat. § 376.80(1)(b)1. These specified redevelopment areas are enumerated at Fla. Stat. §376.80(2)(b) and consist of community redevelopment areas, enterprise zones, empowerment zones, closed military bases, and designated brownfield pilot project areas.

We are advised that the Redevelopment Site is located within a Community Redevelopment Area²⁷ and, accordingly, the criteria under Fla. Stat. § 376.80(2)(b) apply. Unlike Fla. Stat. § 376.80(2)(a), which establishes four substantive factors for a jurisdictional local governments to consider,²⁸ Fla. Stat. § 376.80(2)(b) requires no such analysis but only compliance with certain procedural requirements as set forth at Fla. Stat. § 376.80(1)(c). Accordingly, to properly designate a Brownfield Area under Fla. Stat. §376.80(2)(b), the jurisdictional local government is merely required to do the following:

- (i) provide the requisite statutory notice²⁹ pursuant to Fla. Stat. §376.80(1)(c);
- (ii) adopt a Resolution pursuant to Fla. Stat. §376.80(1)(c)³⁰ ; and
- (iii) conduct public hearings pursuant to Fla. Stat. §376.80(1)(c).

²⁷ In 2002, the Board of County Commissions for Broward County (“BCBCC”) conferred upon the City Commission of Oakland Park the authority to create a Community Redevelopment Agency and prepare a Community Redevelopment Plan. The City’s Community Redevelopment Area (“CRA”) Plan was the product of community involvement, extensive analysis of existing conditional uses, and market trends. The City Commission approved the CRA Plan on November 30, 2005, as did the BCBCC on December 13, 2005.

²⁸ The four factors that a local government must consider when an area to be designated a brownfield is located outside of a specified redevelopment area consist of the following:

1. whether the brownfield area warrants economic development and has a reasonable potential for such activities;
2. whether the proposed area to be designated represents a reasonably focused approach and is not overly large in geographic coverage;
3. whether the area has potential to interest the private sector in participating in rehabilitation; and
4. whether the area contains sites or parts of sites suitable for limited recreational open space, cultural, or historical preservation purposes.

²⁹ In this context, the referenced notice is that set forth at Fla. Stat. § 376.80(1)(c)1 – notice to FDEP and the Broward County Environmental Protection and Growth Management Department of the City’s decision to designate a brownfield area. This notification follows adoption of the designation Resolution pursuant to Fla. Stat. § 376.80(1)(c)2 and must be transmitted to FDEP and Broward County within 30 days after adoption. There are separate notification requirements that apply to adoption of the Resolution. Per Fla. Stat. § 376.80(1)(c)2 and as discussed in footnote no. 29, those requirements can be found at Fla. Stat. § 166.041 generally and Fla. Stat. § 166.041(3)(c)2 specifically. See Exhibit L.

³⁰ In cross-referencing Fla. Stat. § 166.041 (3)(c)2, the Act incorporates certain notification and procedural criteria otherwise applicable to ordinances to the adoption of the designation resolution. In particular, instead of allowing for adoption of a Resolution with a single public hearing, the Act requires “two advertised public hearings.” See Fla. Stat. § 166.041(3)(c)2.a. One of the two such hearings must be held after 5 p.m. on a weekday unless the local governing body by a majority plus one vote elects to conduct that hearing at another time of day. The first public hearing shall be held at least 7 days after the day the first advertisement is published. The second hearing shall be held at least 10 days after the first hearing and shall be advertised at least 5 days prior to the public hearing.

IV. Conclusions and Recommendations

The proposed area to be designated represents a carefully focused approach to redevelopment, emphasizing the type of human-scale-friendly, mixed use, reduced-parking, neighborhood environment that leverages proximity to existing infrastructure, multiple modes of mobility (including public transit), a decreased reliance on individually-owned cars, and the seamless integration of the built environment with the natural environment by mandating private sector investment in accelerating remediation, incorporating green construction materials, improving stormwater quality, and engaging in climate-stewardship initiatives. By engaging in an RFQ process for a qualified master developer, with enforceable timeframes and close oversight by the City, the approach to redevelopment becomes even better calibrated and likely to achieve its well stated goals. Additionally, at a collective 2.07 acres, the Redevelopment Site is not overly large in geographic coverage. As reflected in the spreadsheet analysis below, there are more than 336 designated areas that are *larger* than the area proposed for designation by the City, including 57 areas that are between 5 and 10 acres in size, 105 that are between 10 and 50 acres in size, 23 that are between 50 and 100 acres in size, 58 that are between 100 and 500 acres in size, 32 that are between 500 acres and 1000 acres in size, 46 that are between 1,000 and 5,000 acres in size, 8 that are between 5,000 and 10,000 acres in size, and 6 that are even greater than 10,000 acres in size.

Analysis of Designated Brownfield Areas in Florida by Acreage Range (Based on FDEP Brownfield Area Monthly Status Report Dated August 3, 2017)		
Acreage Range	# of Brownfield Areas within Category	% of All Designations per Category
< 1.0	29	6.79%
1.1 – 5.0	62	14.52%
5.1 - 10.0	57	13.34%
10.1 – 50.0	105	24.59%
50.1 -100.0	23	5.39%
100.1 – 500.0	58	13.58%
500.1 – 1,000.0	33	7.73%
1,000.1 – 5,000.0	46	10.77%
5,000.1 – 10,000.0	8	1.87%
>10,000.0	6	1.41%
Total	427 ³¹	100.00%

Based on the history and regulatory status of the site, reuse of the Redevelopment Site will expose the City and any future developer to contamination assessment and remediation costs that likely will not be covered by the state funded petroleum remediation program. In addition, the City and any such future developer may be exposed to environmental regulatory and third party liability relating to contamination conditions at and perhaps migrating from the Redevelopment Site. Designating the Redevelopment Site a Brownfield Area is an effective and proven strategy for reducing contamination response costs and limiting exposure to regulatory and third-party liability. There are no substantive findings that must be made by the City Council.

³¹ FDEP reported 0.0 acres for 4 designations in Pensacola in 2009 and 1 in Brevard County in 2012. Accordingly, they are not included in the Firm’s analysis, and the total count reflected in the matrix trails the official FDEP count by 5.

For the foregoing reasons, the Firm recommends that the City initiate the designation process, which it may do as of right pursuant to Fla. Stat. § 376.80(2)(b).

/mrg

Index to Exhibits

Exhibit A - Fla. Stat. § 376.79

Exhibit B - Map of Redevelopment Site

Exhibit C - FDEP EDI Eligibility Letter, dated March 9, 1990

Exhibit D - FDEP Memorandum regarding FDOT Contamination Remediation, dated December 22, 1992

Exhibit E - FDEP EDI Scoring Review Memo, dated June 2, 2008

Exhibit F - FDEP Storage Tank Facility Closure Site Inspection Report, dated June 12, 2008

Exhibit G - Soil Boring and Groundwater Monitoring Well Location Site Plan

Exhibit H - Soil Analytical Results Figure

Exhibit I - Groundwater Analytical Results Figure

Exhibit J - FDEP LSSI SAR Approval Letter, dated January 8, 2016

Exhibit K - Fla. Stat. § 376.80

Exhibit L - Fla. Stat. § 166.041

Exhibit A

Select Year:

The 2017 Florida Statutes

[Title XXVIII](#)
NATURAL RESOURCES; CONSERVATION,
RECLAMATION, AND USE

[Chapter 376](#)
POLLUTANT DISCHARGE PREVENTION
AND REMOVAL

[View Entire
Chapter](#)

376.79 Definitions relating to Brownfields Redevelopment Act.—As used in ss. [376.77-376.85](#), the term:

- (1) “Additive effects” means a scientific principle that the toxicity that occurs as a result of exposure is the sum of the toxicities of the individual chemicals to which the individual is exposed.
- (2) “Antagonistic effects” means a scientific principle that the toxicity that occurs as a result of exposure is less than the sum of the toxicities of the individual chemicals to which the individual is exposed.
- (3) “Background concentration” means the concentration of contaminants naturally occurring or resulting from anthropogenic impacts unrelated to the discharge of pollutants or hazardous substances at a contaminated site undergoing site rehabilitation.
- (4) “Brownfield sites” means real property, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental contamination.
- (5) “Brownfield area” means a contiguous area of one or more brownfield sites, some of which may not be contaminated, and which has been designated by a local government by resolution. Such areas may include all or portions of community redevelopment areas, enterprise zones, empowerment zones, other such designated economically deprived communities and areas, and Environmental Protection Agency-designated brownfield pilot projects.
- (6) “Contaminant” means any physical, chemical, biological, or radiological substance present in any medium which may result in adverse effects to human health or the environment or which creates an adverse nuisance, organoleptic, or aesthetic condition in groundwater.
- (7) “Contaminated site” means any contiguous land, sediment, surface water, or groundwater areas that contain contaminants that may be harmful to human health or the environment.
- (8) “Department” means the Department of Environmental Protection.
- (9) “Engineering controls” means modifications to a site to reduce or eliminate the potential for exposure to chemicals of concern from petroleum products, drycleaning solvents, or other contaminants. Such modifications may include, but are not limited to, physical or hydraulic control measures, capping, point of use treatments, or slurry walls.
- (10) “Environmental justice” means the fair treatment of all people of all races, cultures, and incomes with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.
- (11) “Institutional controls” means the restriction on use of or access to a site to eliminate or minimize exposure to chemicals of concern from petroleum products, drycleaning solvents, or other contaminants. Such restrictions may include, but are not limited to, deed restrictions, restrictive covenants, or conservation easements.
- (12) “Local pollution control program” means a local pollution control program that has received delegated authority from the Department of Environmental Protection under ss. [376.80\(9\)](#) and [403.182](#).
- (13) “Long-term natural attenuation” means natural attenuation approved by the department as a site rehabilitation program task for a period of more than 5 years.
- (14) “Natural attenuation” means a verifiable approach to site rehabilitation that allows natural processes to contain the spread of contamination and reduce the concentrations of contaminants in contaminated groundwater

and soil. Natural attenuation processes may include sorption, biodegradation, chemical reactions with subsurface materials, diffusion, dispersion, and volatilization.

(15) “Person responsible for brownfield site rehabilitation” means the individual or entity that is designated by the local government to enter into the brownfield site rehabilitation agreement with the department or an approved local pollution control program and enters into an agreement with the local government for redevelopment of the site.

(16) “Person” means any individual, partner, joint venture, or corporation; any group of the foregoing, organized or united for a business purpose; or any governmental entity.

(17) “Risk reduction” means the lowering or elimination of the level of risk posed to human health or the environment through interim remedial actions, remedial action, or institutional, and if appropriate, engineering controls.

(18) “Secretary” means the secretary of the Department of Environmental Protection.

(19) “Site rehabilitation” means the assessment of site contamination and the remediation activities that reduce the levels of contaminants at a site through accepted treatment methods to meet the cleanup target levels established for that site. For purposes of sites subject to the Resource Conservation and Recovery Act, as amended, the term includes removal, decontamination, and corrective action of releases of hazardous substances.

(20) “Source removal” means the removal of free product, or the removal of contaminants from soil or sediment that has been contaminated to the extent that leaching to groundwater or surface water has occurred or is occurring.

(21) “Synergistic effects” means a scientific principle that the toxicity that occurs as a result of exposure is more than the sum of the toxicities of the individual chemicals to which the individual is exposed.

History.—s. 3, ch. 97-277; s. 2, ch. 98-75; s. 10, ch. 2000-317; s. 1, ch. 2004-40; s. 4, ch. 2008-239; s. 3, ch. 2016-184.

Exhibit B

Redevelopment Site - Parcel Map



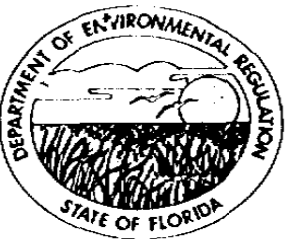
#	Parcel Information Property Owner: City of Oakland Park
1	Folio: 494223000470
2	Folio: 494223150010
3	Folio: 494223150062
4	Folio: 494223150070
5	Folio: 494223150060
6	Folio: 494223150050
7	Folio: 494223150040
8	Folio: 494223150030
9	Folio: 494223150020

Estimated Total Site Size

North Lot: 0.78 Net Acres

South Lot: 2.20 Net Acres

Exhibit C



Florida Department of Environmental Regulation

Twin Towers Office Bldg. • 2600 Blair Stone Road • Tallahassee, Florida 32399-2400

Bob Martinez, Governor

Dale Twachtmann, Secretary

John Shearer, Assistant Secretary

March 9, 1990

J. E. Brenman
J.E. Brenman Consulting Engineers, Inc.
1801 University Drive
Coral Springs, FL 33071-6078

RE: Bennett Auto Supply, 3869 N. Dixie Highway,
EDI# 06-6990 DER Facility Number: 068622446

Dear Mr. Brennan

The Department of Environmental Regulation has concluded its review of the documentation submitted in accordance with Section 376.3071 (9) (b), Florida Statutes (F.S.), and determined that this site is eligible for state-administered cleanup under the Early Detection Incentive Program.

Persons whose substantial interests are affected by this Order of Determination of Eligibility have a right, pursuant to Section 120.57, Florida Statutes, to petition for an administrative determination (hearing). The Petition must conform to the requirements of Chapters 17-103 and 28-5, Florida Administrative Code, and must be filed (received) with the Department's Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, within twenty-one (21) days of receipt of this notice. Failure to file a petition within the twenty-one (21) days constitutes a waiver of any right such persons have to an administrative determination (hearing) pursuant to section 120.57, Florida Statutes.

This Order of Determination of Eligibility is final and effective on the date of receipt of this Order unless a petition is filed in accordance with the preceding paragraph. Upon the timely filing of a petition, this Order will not be effective until further order of the Department.

When the Order is final, any party to the Order has the right to seek judicial review of the Order pursuant to Section 120.68, Florida Statutes by filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the clerk of the Department in the Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400; and by filing a copy of the Notice of Appeal, accompanied by the applicable



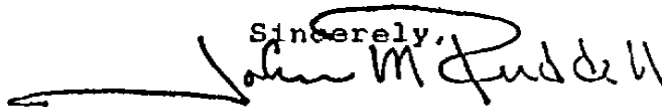
D0048979

filing fees, with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date the Final Order is filed with the clerk of the Department.

The DER Facility Number for this site is 068622446. Please use this identification on all future correspondence with the Department.

Any questions you may have on the technical aspects of this Order of Determination of Eligibility should be directed to Craig Ash at (904) 487-3299. Contact with the above named person does not constitute a petition for administrative determination.

Sincerely,

A handwritten signature in black ink that reads "John M. Ruddell". The signature is written in a cursive style and is positioned below the word "Sincerely,".

John M. Ruddell, Chief
Bureau of Waste Cleanup

JMR/fh

cc: Lorenzo Fernandez, BCEQCB

Exhibit D



State of Florida
DEPARTMENT OF ENVIRONMENTAL REGULATION

For Routing To Other Than The Addressee	
To _____	Location _____
To _____	Location _____
To _____	Location _____
From _____	Date _____

Interoffice Memorandum

TO: Teresa Rahrig/Tanks Supervisor

THRU: Paul Wierzbicki/Waste Cleanup Supervisor

FROM: *gma* Lee Martin/Waste Cleanup Section

DATE: DEC. 22 1992

REF: Contaminated Soil Excavation by FDOT
Bennett Auto Supply DER ID 068622446
3869 N. Dixie Hwy, Oakland Park, Fl

AM
12/22/92

Mr. Lampley

After telecon with Paul Lampley/FDOT District 4, the attached fax was received on 12/22/92 which indicates the area where contaminated soil was removed during installation of utilities associated with construction along Dixie Hwy. The contaminated soil was removed within the outlined area along the west side of Dixie Hwy and along NE 39 th St by OHM Materials and taken to Rinker Materials for incineration. ~~Paul~~ indicated they did not excavate to groundwater, only to the depth required for the storm sewer installation. He indicated approximately 140 tons of soil were incinerated but not all was removed as contaminated, the utility contractor removed contaminated soil and mixed it with clean soil before they realized it had to be segregated and disposed of separately. He also indicated OVA readings were greater than 1000ppm.

After review of the STI screens it was determined this site has been identified as an EDI site with an eligibility date of 3/9/90 in the state cleanup program under Fac ID 068622446. The previous information had only identified contaminated groundwater; however, this appears to confirm soil contamination as well which may increase the ranking priority currently listed for state cleanup. The attached information is provided in order to update the current status of the site. Paul Lampley/FDOT/SC 423-1750 has agreed to provide any additional information needed on their activities associated with this site.

IMAGE QUALITY

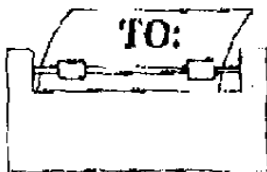
**PLEASE NOTE:
THE ORIGINAL DOCUMENT WHICH
WERE SCANNED FOR THIS RECORD
WERE OF POOR QUALITY.**

....

District Four
Florida Department of Transportation
760 SW 24th Street
Ft Lauderdale, Florida 33315 2606

DATE: 12/22/92

District Four Environmental Management Office



FAX Number: 407-433-2666

TOTAL
Number of pages
including this page

4

LEE MARTIN, FDER

PHONE (805) 797-1760
Suncom 428-1780
Local Address: 401 Ravenswood Road Ft Lauderdale, Florida 33302

FAX (805) 797-1777
Suncom 408-1777



PAUL CAMPBELL

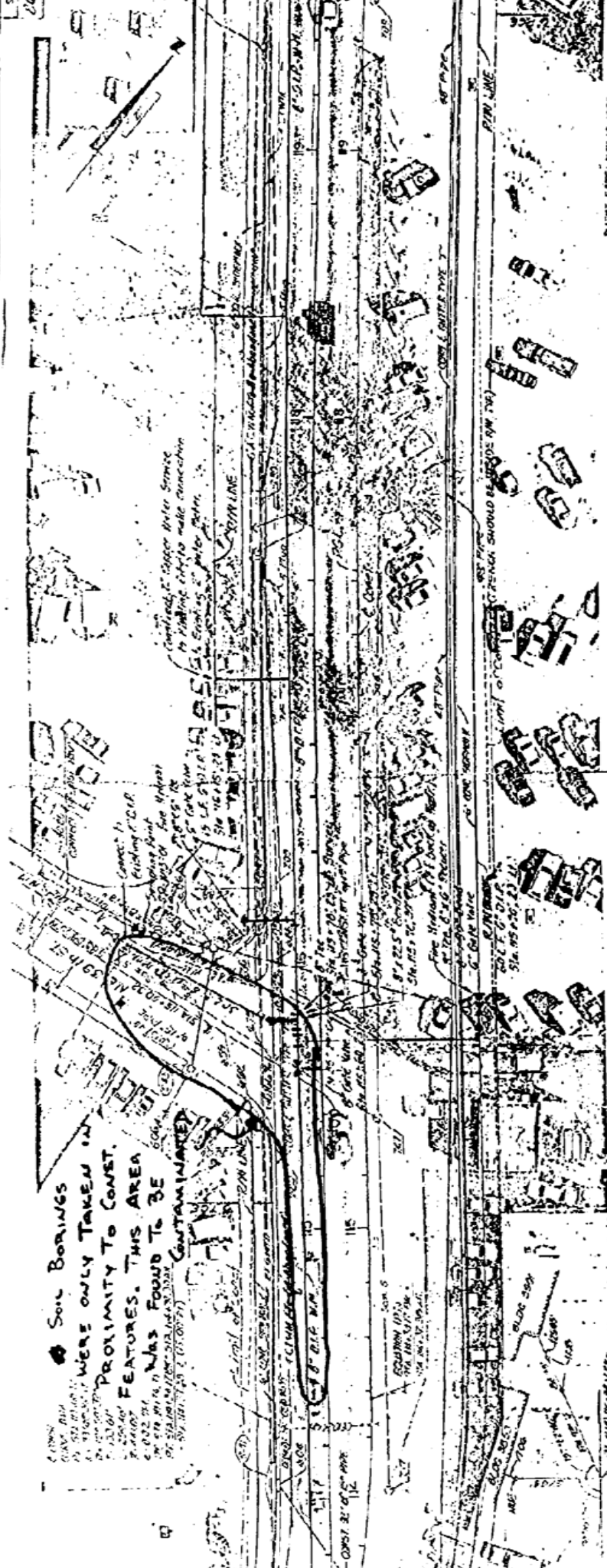
Message:

BR-811 (DIXIE HWY)
STATE PROJECT No. 86170-3507
WPI # 4110123

THESE ARE THE CONSTRUCTION PLANS FOR
THE AREA WE FOUND TO BE CONTAMINATED

P.L.

SOIL BORINGS
 WERE ONLY TAKEN IN
 PROXIMITY TO CONST.
 FEATURES. THIS AREA
 WAS FOUND TO BE
 CONTAMINATED

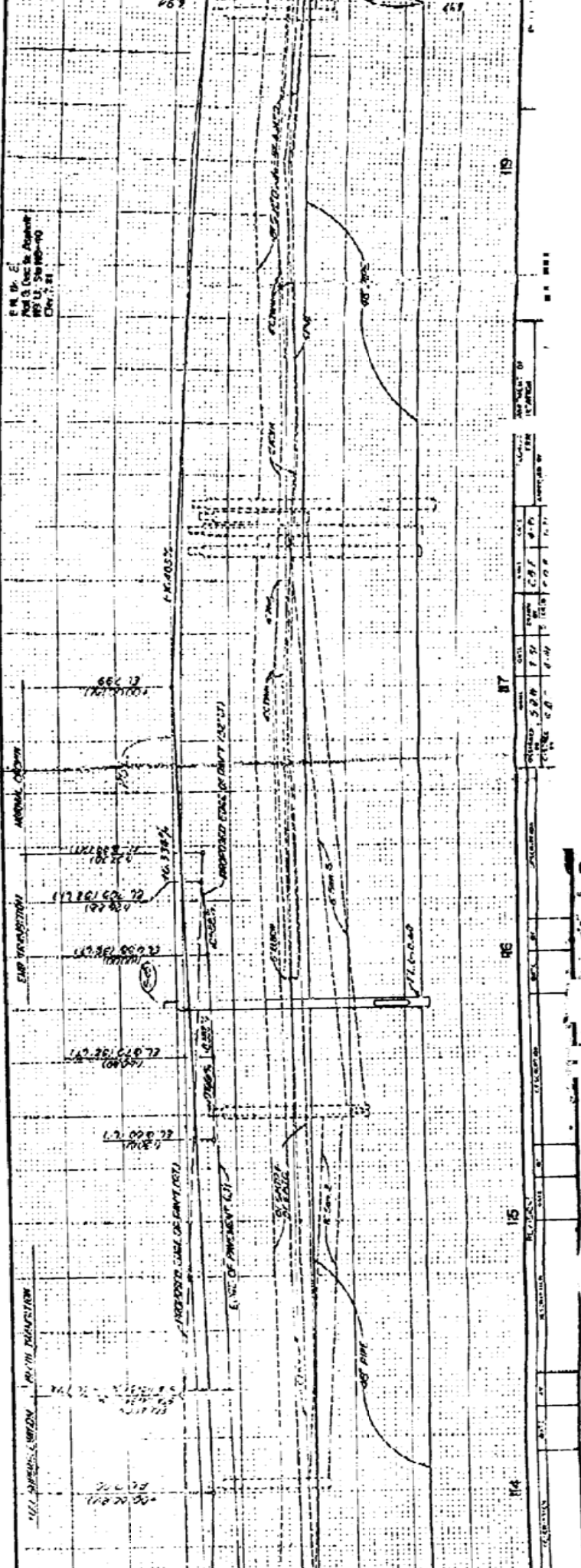


(Continued) Upper Water Service
 in building should make connection
 to existing water main.

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 10. 123.01' 123.01' 123.01'

PLANT DATE: MAY 46, 1985

E. M. D. E.
 And S. D. C. in
 195 U. S. 100-10
 Ch. 7, 21



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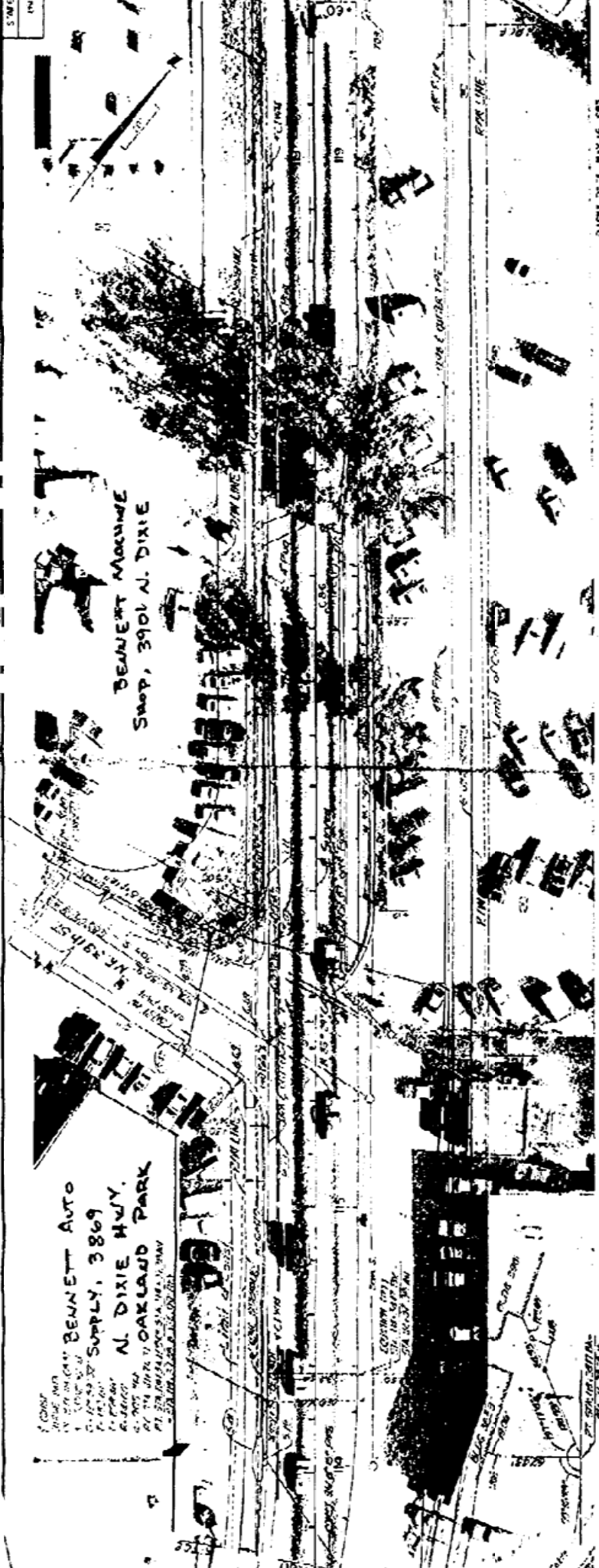
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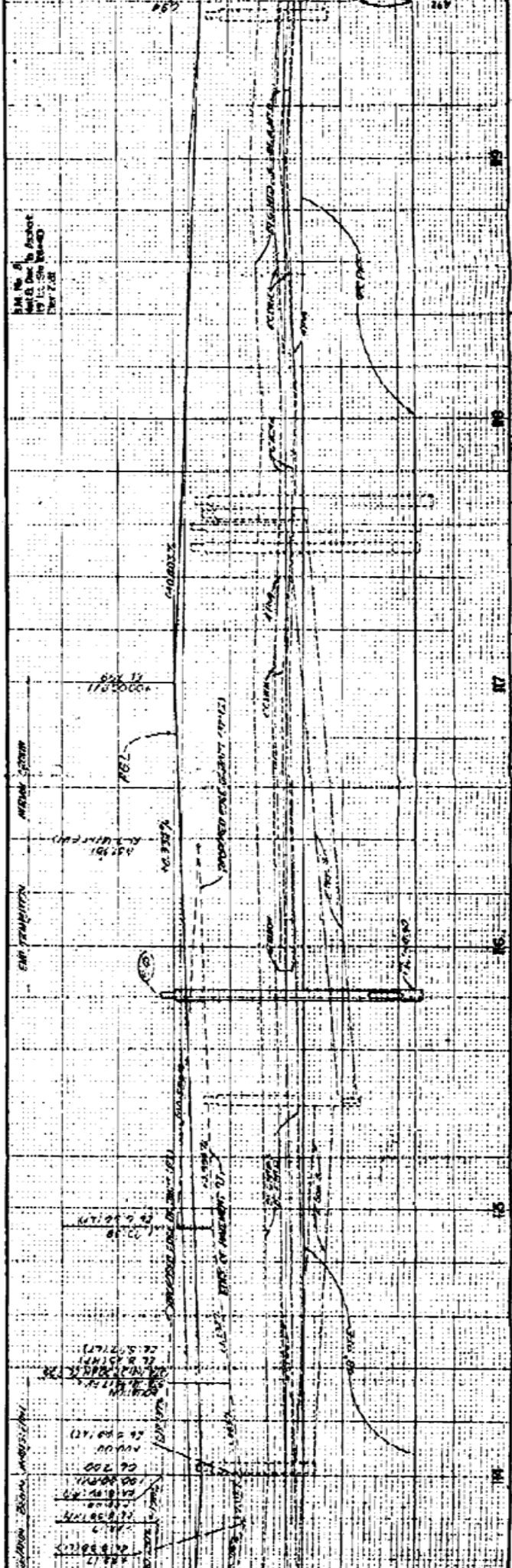
NO.	DATE	BY	REVISION	DESCRIPTION
1	5-24-85	E. M. D. E.		PRELIMINARY
2	5-24-85	E. M. D. E.		REVISED
3	5-24-85	E. M. D. E.		REVISED
4	5-24-85	E. M. D. E.		REVISED
5	5-24-85	E. M. D. E.		REVISED
6	5-24-85	E. M. D. E.		REVISED
7	5-24-85	E. M. D. E.		REVISED
8	5-24-85	E. M. D. E.		REVISED
9	5-24-85	E. M. D. E.		REVISED
10	5-24-85	E. M. D. E.		REVISED

BENNETT AUTO
SUPPLY, 3869
N. DIXIE HWY.
OAKLAND PARK

BENNETT MACHINE
SHOP, 3901 N. DIXIE

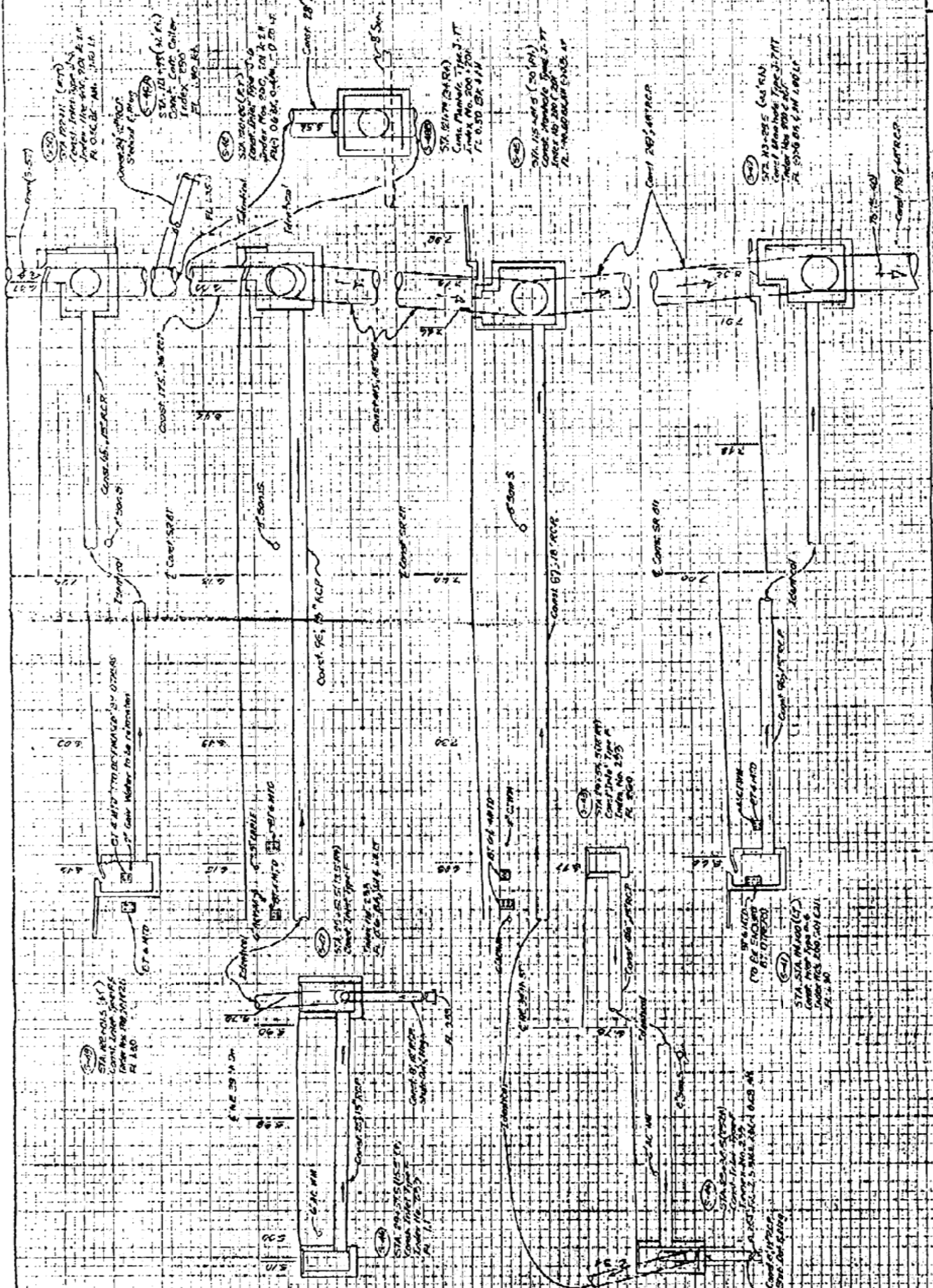


LIGHT DUTY MAY 16, 1957



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4 3/4" = 1' (Scale)

DATE	2-27-57	BY	J. H. H.	PROJECT	Carroll Spangherman Road
SCALE	1/4" = 1'	DATE	2-27-57	BY	J. H. H.
PROJECT	Carroll Spangherman Road	DATE	2-27-57	BY	J. H. H.
DESCRIPTION	Carroll Spangherman Road	DATE	2-27-57	BY	J. H. H.
REVISIONS		DATE		BY	
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 Under Min 200, 201, 202
 FL 0.100

STA 100 (100)
 Conv. 175.30700
 Under Min 200, 201, 202
 FL 0.100

STA 200 (100)
 Conv. 175.30700
 Under Min 200, 201, 202
 FL 0.100

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 Under Min 200, 201, 202
 FL 0.100

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 Conv. 175.30700
 Under Min 200, 201, 202
 FL 0.100

STA 100 (100)
 Conv. 175.30700
 Under Min 200, 201, 202
 FL 0.100

STA 200 (100)
 Conv. 175.30700
 Under Min 200, 201, 202
 FL 0.100

CONV. 175.30700

CONV. 67.18700

CONV. 175.30700

CONV. 67.18700

CONV. 175.30700

Vertical text on the right edge of the drawing, possibly a scale or reference line.

Exhibit E



FDEP Scoring Review

Deliverable Date: June 02, 2008

FacilityID: 068622446

Latitude: 26° 10' 27.755" N

Longitude: 80° 7' 56" W

BENNETT AUTO SUPPLY

3869 N DIXIE HWY
OAKLAND PARK, FL 33334

Scoring Date:

Scored by:

Requested by:

Well Survey Requested:

Comments:

Discharge Date	Discharge ID	Eligibility Date	Program	Eligibility	Previous Score	New Score
12/29/1988	11296	03/09/1990	EDI	ELIGIBLE	10	10



FDEP Scoring Review

Deliverable Date: June 02, 2008

FacilityID: 068622446

Latitude: 26° 10' 27.755" N

Longitude: 80° 7' 56" W

Fire/Explosion Hazard

1. Free product or volatilized petroleum products at or above 20% of the Lower Explosive Limit (LEL) in existing utility conduits or vaults, buildings or other inhabited confined spaces (60 points).	0
2. Ignitable free product on surface waters or impoundments (60 points).	0

Threat to Uncontaminated Drinking Water Supplies

1. Uncontaminated municipal or community well fields of greater than 100,000 gallons per day permitted capacity with a well within 1/2 mile of the site (30 points).	0
a. If the well field's 1 foot draw down contour is known to encompass the site regardless of the well field's distance from the site (20 points).	0
b. If the well field is located down gradient of the site (15 points).	0
2. Uncontaminated private wells constructed prior to date of contamination discovery, or uncontaminated public water system well field with less than 100,000 gallons per day permitted capacity with a well within 1/4 mile of the site (20 points).	0
a. If the well field's 1 foot drawn down contour is known to encompass the site regardless of the well field's distance from the site (10 points).	0
b. If the well field is located down gradient of the site (5 points).	0
3. Uncontaminated surface water body used as a public water system supply within 1/2 mile of the site (10 points).	0

Migration Potential

1. Source Characteristics (select only one) a. Recent spills or free product found in wells/boreholes (4 points) except free product of 2 inches or more in 2 or more wells/boreholes (6 points). b. Recent product loss or wells/groundwater contaminated but no free product (2 points).	2
2. Product Type (select only one) a. Light petroleum product (kerosene, gasoline, aviation fuel and similar petroleum products) with water soluble additives or enhancers (MTBE, ethanol and similar substances) (3 points). b. Light petroleum product with no additives or enhancers (2 points). c. Heavy petroleum product (fuel oil, diesel and similar petroleum products) (1 point).	2

Environmental Setting

1. Site located in G-1 aquifer (4 points) or G-2 aquifer (2 points).	2
2. Site located in a high recharge permeability geological area (4 points).	4
3. Site located within 1/2 mile of an Outstanding Florida Water (1 point).	0

Total: 10

Exhibit F



Florida Department of Environmental Protection
Twin Towers Office Bldg. 2600 Blair Stone Road. Tallahassee, Florida 32399-2400
Division of Waste Management
Bureau of Petroleum Storage Systems

Storage Tank Facility Closure Site Inspection Report

Facility Information

Facility ID: 8622446 County: BROWARD Inspection Date: 06/12/2008
Facility Name: BENNETT AUTO SUPPLY Facility Type: C - Fuel user/Non-retail
3869 N DIXIE HWY # Of Inspected ASTs: 0
OAKLAND PARK, FL 33334-2951 USTs: 5
Latitude: 26° 10' 27.7475" Mineral Acid Tanks: 0
Longitude: 80° 7' 55.8855"
L/L Method: DPHO

Inspection Result

Result : In Compliance
Description: Facility is in compliance
No re-inspection needed for this Facility.

Financial Responsibility **Over Due**

Financial Responsibility: NONE
Insurance Carrier:
Effective Date: 01/01/2008 Expiration Date: 01/01/2008

Signatures

TKBWNR - BROWARD COUNTY ENVIRONMENTAL
PROTECTION DEPT
Storage Tank Program Office

STEVE SINGER

Inspector Name

Inspector Signature

(954) 519-1260

Storage Tank Program Office Phone Number

Simon Krolicki (supervisor-FEE)

Facility Representative Name

Facility Representative Signature

Inspection Comments

- 06/12/2008
- 1) Removed five S/W, U/G steel tanks. Three-3,000 gallon tanks, one-1,000 gallon & one 500 gallon.
 - 2) Was some product remaining in the three 3000 gallon tanks and the small 500 gallon tank (gasoline) when found by pipeline contractor and the 1,000 gallon tank had some PCW. Perma Fix pumped them out before removal, and also cleaned tanks today after they had been pulled. Perma Fix also skimmed off any old floating product from groundwater in excavation area.
 - 3) Contractor/consultant on site is Florida Environmental Eng. PCC# 053988.
 - 4) There was some small amount of steel piping from tanks on NE side and that was also removed with the tanks.
 - 5) Did not see any areas on tanks where corrosion caused any holes though northernmost tank (one of the 3,000 gallon tanks) did have a hole in the NE corner that was caused by something like a backhoe bucket striking it). No idea when that was caused.
 - 6) There were strong odors coming from the excavation area and the foamy type sludge was floating on top of groundwater though very minor sheen present. OVA samples were taken. Highest PPM OVA sample was near where the hole in the northernmost tank was.
 - 7) After Perma Fix cleans tanks, they will be removed to a recycling center.
 - 8) All OVA results and final report will be sent with TCAR. This is a previously contaminated site and all the contaminated soil was placed back in excavation area after Perma Fix skimmed off product from groundwater in excavation area.. A new sewer pipeline is scheduled to be placed in this area.
 - 9) City of Oakland Park now owns this property.

Inspection Attachments

01. Perma Fix vac truck on site.



02. View of the five S/W steel tank after removal.



Inspection Attachments

03. View of excavation area.



Exhibit G

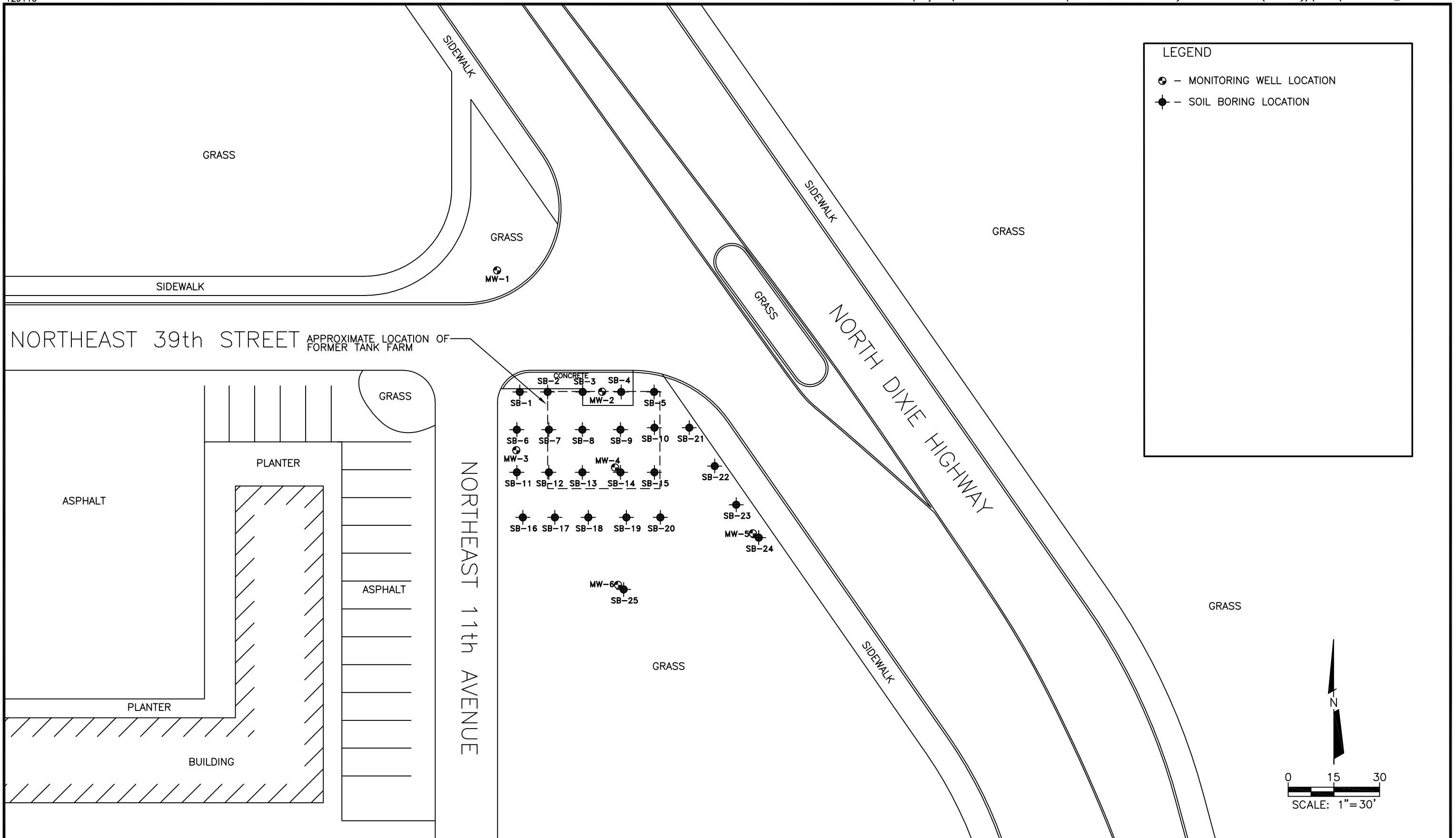
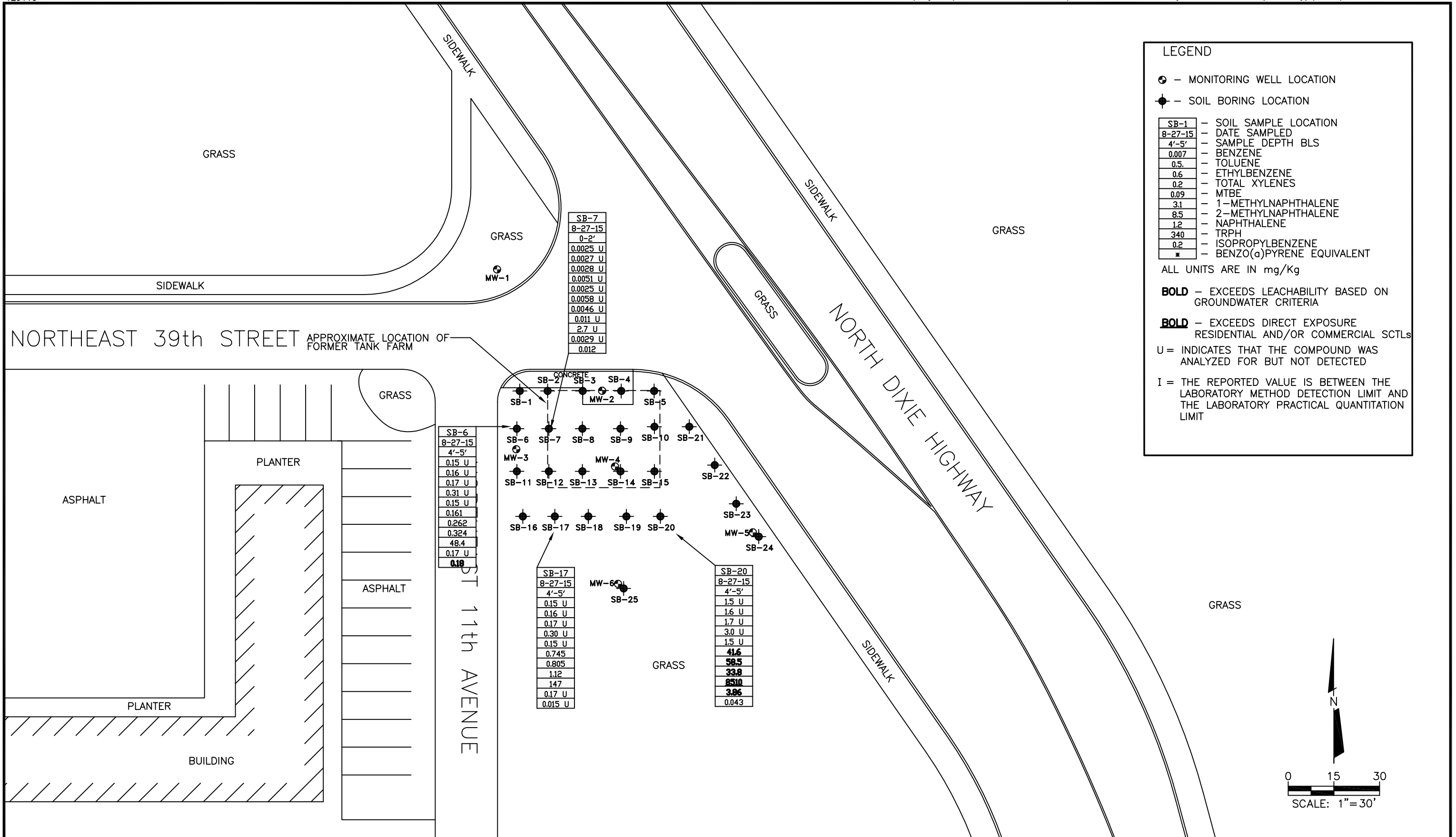


Exhibit H



HCR
HANDEX CONSULTING & REMEDIATION, LLC

6555 Powerline Road Suite 309
Fort Lauderdale, Florida 33309
Telephone: (954) 681-4077
Fax: (954) 681-4069
Certificate of Authorization# 26812

CITY OF OAKLAND PARK (DIXIE HIGHWAY)
3869 NORTH DIXIE HIGHWAY
OAKLAND PARK, FLORIDA
FDEP FAC ID #06/8622446

12-23-15

FIGURE 3
SOIL ANALYTICAL RESULTS

Exhibit I

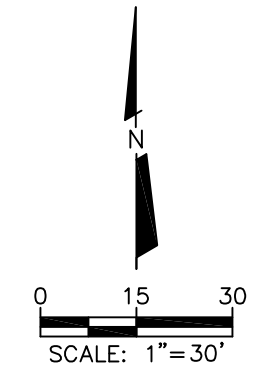
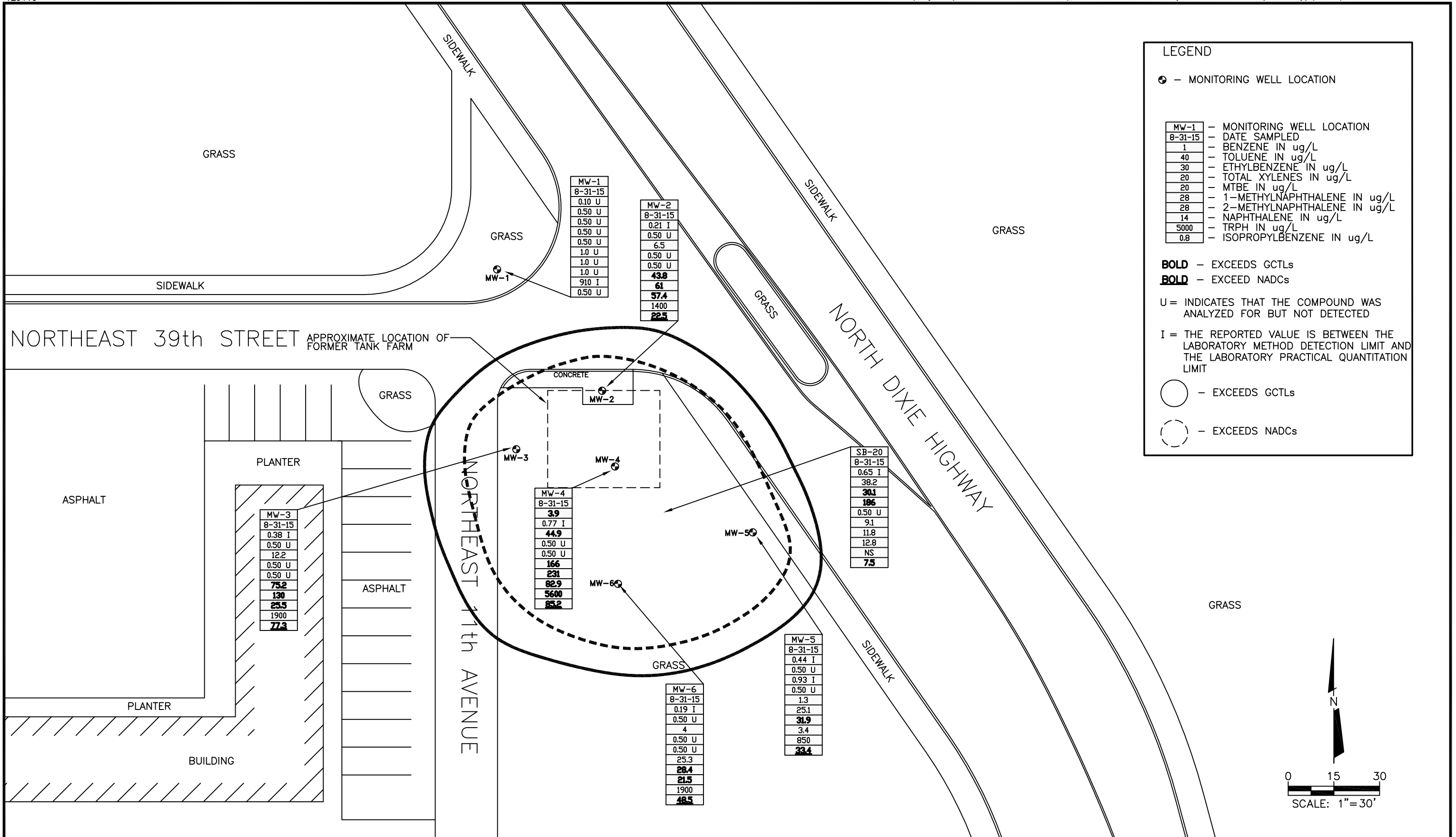


Exhibit J



Florida Department of Environmental Protection

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Rick Scott
Governor

Carlos Lopez-Cantera
Lt. Governor

Jonathan P. Steverson
Secretary

January 8, 2016

(Send via email only to addressee at Imartin@Handexmail.com)

Ms. Isabel Martin, P.E.
Handex Consulting and Remediation-Southeast LLC
6555 Powerline Rd #309
Ft Lauderdale, FL 33309

Subject: LSSI Site Assessment Report Review
City of Oakland Park
3869 N Dixie Hwy
Oakland Park, Broward, Florida
FDEP Facility ID 06/8622446
Discharge Date 12/29/88 (EDI)
Priority Score 10 (LSSI)
Work Order # 2015-95-W8782A

Dear Ms. Martin,

The Petroleum Restoration Program (PRP) has reviewed the LSSI Site Assessment Report dated December 23, 2015, (received December 28, 2015), along with the Event 1 Letter Report received on September 25, 2015, that were submitted for this facility. The LSSI Site Assessment Report is satisfactory and complete, the invoice for retainage can be submitted. We agree with the recommendation by Handex to place this site back into priority score funding order. This is due to groundwater impacts above Natural Attenuation Default Concentrations in close proximity to the property boundary and the existence of soil contamination that exceeds leachability and direct exposure.

Please submit the final invoice within 30 days of receiving this letter. If you should have any questions about the review, please contact me at (850) 222-6446 ext. 245, mmanley@northstar.com, or at the letterhead address, Mail Station 4585.

Ms. Isabel Martin, P.E.
FDEP Facility ID # 06/8622446
Page 2
January 8, 2016

Sincerely,



Matthew Manley
Staff Geologist
NorthStar Contracting Group, Site Manager
Petroleum Restoration Program Section Five
Email: mmanley@northstar.com



Susan Fields
Environmental Administrator
Florida Department of Environmental Protection
Petroleum Restoration Program
Susan.fields@dep.state.fl.us

Reviewed by:




Kristin Bailey, P.G. #2841
NorthStar Contracting Group Associate Geologist
Petroleum Restoration Program Section Five

1/8/16
Date

ec: Harvey Rambarath, City of Oakland Park, harveyr@oaklandparkfl.gov
David Vanlandingham, Broward County, dvanlandingham@broward.org
File

Exhibit K

Select Year:

The 2017 Florida Statutes

[Title XXVIII](#)
NATURAL RESOURCES; CONSERVATION,
RECLAMATION, AND USE

[Chapter 376](#)
POLLUTANT DISCHARGE PREVENTION
AND REMOVAL

[View Entire
Chapter](#)

376.80 Brownfield program administration process.—

(1) The following general procedures apply to brownfield designations:

(a) The local government with jurisdiction over a proposed brownfield area shall designate such area pursuant to this section.

(b) For a brownfield area designation proposed by:

1. The jurisdictional local government, the designation criteria under paragraph (2)(a) apply, except if the local government proposes to designate as a brownfield area a specified redevelopment area as provided in paragraph (2)(b).

2. Any person, other than a governmental entity, including, but not limited to, individuals, corporations, partnerships, limited liability companies, community-based organizations, or not-for-profit corporations, the designation criteria under paragraph (2)(c) apply.

(c) Except as otherwise provided, the following provisions apply to all proposed brownfield area designations:

1. Notification to department following adoption.—A local government with jurisdiction over the brownfield area must notify the department, and, if applicable, the local pollution control program under s. [403.182](#), of its decision to designate a brownfield area for rehabilitation for the purposes of ss. [376.77-376.86](#). The notification must include a resolution adopted by the local government body. The local government shall notify the department, and, if applicable, the local pollution control program under s. [403.182](#), of the designation within 30 days after adoption of the resolution.

2. Resolution adoption.—The brownfield area designation must be carried out by a resolution adopted by the jurisdictional local government, which includes a map adequate to clearly delineate exactly which parcels are to be included in the brownfield area or alternatively a less-detailed map accompanied by a detailed legal description of the brownfield area. For municipalities, the governing body shall adopt the resolution in accordance with the procedures outlined in s. [166.041](#), except that the procedures for the public hearings on the proposed resolution must be in the form established in s. [166.041\(3\)\(c\)2](#). For counties, the governing body shall adopt the resolution in accordance with the procedures outlined in s. [125.66](#), except that the procedures for the public hearings on the proposed resolution shall be in the form established in s. [125.66\(4\)\(b\)](#).

3. Right to be removed from proposed brownfield area.—If a property owner within the area proposed for designation by the local government requests in writing to have his or her property removed from the proposed designation, the local government shall grant the request.

4. Notice and public hearing requirements for designation of a proposed brownfield area outside a redevelopment area or by a nongovernmental entity. Compliance with the following provisions is required before designation of a proposed brownfield area under paragraph (2)(a) or paragraph (2)(c):

a. At least one of the required public hearings shall be conducted as closely as is reasonably practicable to the area to be designated to provide an opportunity for public input on the size of the area, the objectives for rehabilitation, job opportunities and economic developments anticipated, neighborhood residents' considerations, and other relevant local concerns.

b. Notice of a public hearing must be made in a newspaper of general circulation in the area, must be made in ethnic newspapers or local community bulletins, must be posted in the affected area, and must be announced at a scheduled meeting of the local governing body before the actual public hearing.

(2)(a) *Local government-proposed brownfield area designation outside specified redevelopment areas.*—If a local government proposes to designate a brownfield area that is outside a community redevelopment area, enterprise zone, empowerment zone, closed military base, or designated brownfield pilot project area, the local government shall provide notice, adopt the resolution, and conduct public hearings pursuant to paragraph (1)(c). At a public hearing to designate the proposed brownfield area, the local government must consider:

1. Whether the brownfield area warrants economic development and has a reasonable potential for such activities;
2. Whether the proposed area to be designated represents a reasonably focused approach and is not overly large in geographic coverage;
3. Whether the area has potential to interest the private sector in participating in rehabilitation; and
4. Whether the area contains sites or parts of sites suitable for limited recreational open space, cultural, or historical preservation purposes.

(b) *Local government-proposed brownfield area designation within specified redevelopment areas.*—Paragraph (a) does not apply to a proposed brownfield area if the local government proposes to designate the brownfield area inside a community redevelopment area, enterprise zone, empowerment zone, closed military base, or designated brownfield pilot project area and the local government complies with paragraph (1)(c).

(c) *Brownfield area designation proposed by persons other than a governmental entity.*—For designation of a brownfield area that is proposed by a person other than the local government, the local government with jurisdiction over the proposed brownfield area shall provide notice and adopt a resolution to designate the brownfield area pursuant to paragraph (1)(c) if, at the public hearing to adopt the resolution, the person establishes all of the following:

1. A person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate and redevelop the brownfield site.
2. The rehabilitation and redevelopment of the proposed brownfield site will result in economic productivity of the area, along with the creation of at least 5 new permanent jobs at the brownfield site that are full-time equivalent positions not associated with the implementation of the brownfield site rehabilitation agreement and that are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment of the proposed brownfield site or area. However, the job creation requirement does not apply to the rehabilitation and redevelopment of a brownfield site that will provide affordable housing as defined in s. [420.0004](#) or the creation of recreational areas, conservation areas, or parks.
3. The redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permissible use under the applicable local land development regulations.
4. Notice of the proposed rehabilitation of the brownfield area has been provided to neighbors and nearby residents of the proposed area to be designated pursuant to paragraph (1)(c), and the person proposing the area for designation has afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation. Notice pursuant to this subparagraph must be posted in the affected area.
5. The person proposing the area for designation has provided reasonable assurance that he or she has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment of the brownfield site.

(d) *Negotiation of brownfield site rehabilitation agreement.*—The designation of a brownfield area and the identification of a person responsible for brownfield site rehabilitation simply entitles the identified person to negotiate a brownfield site rehabilitation agreement with the department or approved local pollution control program.

(3) When there is a person responsible for brownfield site rehabilitation, the local government must notify the department of the identity of that person. If the agency or person who will be responsible for the coordination

changes during the approval process specified in subsections (4), (5), and (6), the department or the affected approved local pollution control program must notify the affected local government when the change occurs.

(4) Local governments or persons responsible for rehabilitation and redevelopment of brownfield areas must establish an advisory committee or use an existing advisory committee that has formally expressed its intent to address redevelopment of the specific brownfield area for the purpose of improving public participation and receiving public comments on rehabilitation and redevelopment of the brownfield area, future land use, local employment opportunities, community safety, and environmental justice. Such advisory committee should include residents within or adjacent to the brownfield area, businesses operating within the brownfield area, and others deemed appropriate. The person responsible for brownfield site rehabilitation must notify the advisory committee of the intent to rehabilitate and redevelop the site before executing the brownfield site rehabilitation agreement, and provide the committee with a copy of the draft plan for site rehabilitation which addresses elements required by subsection (5). This includes disclosing potential reuse of the property as well as site rehabilitation activities, if any, to be performed. The advisory committee shall review any proposed redevelopment agreements prepared pursuant to paragraph (5)(i) and provide comments, if appropriate, to the board of the local government with jurisdiction over the brownfield area. The advisory committee must receive a copy of the executed brownfield site rehabilitation agreement. When the person responsible for brownfield site rehabilitation submits a site assessment report or the technical document containing the proposed course of action following site assessment to the department or the local pollution control program for review, the person responsible for brownfield site rehabilitation must hold a meeting or attend a regularly scheduled meeting to inform the advisory committee of the findings and recommendations in the site assessment report or the technical document containing the proposed course of action following site assessment.

(5) The person responsible for brownfield site rehabilitation must enter into a brownfield site rehabilitation agreement with the department or an approved local pollution control program if actual contamination exists at the brownfield site. The brownfield site rehabilitation agreement must include:

(a) A brownfield site rehabilitation schedule, including milestones for completion of site rehabilitation tasks and submittal of technical reports and rehabilitation plans as agreed upon by the parties to the agreement.

(b) A commitment to conduct site rehabilitation activities under the observation of professional engineers or geologists who are registered in accordance with the requirements of chapter 471 or chapter 492, respectively. Submittals provided by the person responsible for brownfield site rehabilitation must be signed and sealed by a professional engineer registered under chapter 471, or a professional geologist registered under chapter 492, certifying that the submittal and associated work comply with the law and rules of the department and those governing the profession. In addition, upon completion of the approved remedial action, the department shall require a professional engineer registered under chapter 471 or a professional geologist registered under chapter 492 to certify that the corrective action was, to the best of his or her knowledge, completed in substantial conformance with the plans and specifications approved by the department.

(c) A commitment to conduct site rehabilitation in accordance with department quality assurance rules.

(d) A commitment to conduct site rehabilitation consistent with state, federal, and local laws and consistent with the brownfield site contamination cleanup criteria in s. [376.81](#), including any applicable requirements for risk-based corrective action.

(e) Timeframes for the department's review of technical reports and plans submitted in accordance with the agreement. The department shall make every effort to adhere to established agency goals for reasonable timeframes for review of such documents.

(f) A commitment to secure site access for the department or approved local pollution control program to all brownfield sites within the eligible brownfield area for activities associated with site rehabilitation.

(g) Other provisions that the person responsible for brownfield site rehabilitation and the department agree upon, that are consistent with ss. [376.77-376.86](#), and that will improve or enhance the brownfield site rehabilitation process.

(h) A commitment to consider appropriate pollution prevention measures and to implement those that the person responsible for brownfield site rehabilitation determines are reasonable and cost-effective, taking into

account the ultimate use or uses of the brownfield site. Such measures may include improved inventory or production controls and procedures for preventing loss, spills, and leaks of hazardous waste and materials, and include goals for the reduction of releases of toxic materials.

(i) Certification that the person responsible for brownfield site rehabilitation has consulted with the local government with jurisdiction over the brownfield area about the proposed redevelopment of the brownfield site, that the local government is in agreement with or approves the proposed redevelopment, and that the proposed redevelopment complies with applicable laws and requirements for such redevelopment. Certification shall be accomplished by referencing or providing a legally recorded or officially approved land use or site plan, a development order or approval, a building permit, or a similar official document issued by the local government that reflects the local government's approval of proposed redevelopment of the brownfield site; providing a copy of the local government resolution designating the brownfield area that contains the proposed redevelopment of the brownfield site; or providing a letter from the local government that describes the proposed redevelopment of the brownfield site and expresses the local government's agreement with or approval of the proposed redevelopment.

(6) Any contractor performing site rehabilitation program tasks must demonstrate to the department that the contractor:

- (a) Meets all certification and license requirements imposed by law; and
- (b) Will conduct sample collection and analyses pursuant to department rules.

(7) During the cleanup process, if the department or local program fails to complete review of a technical document within the timeframe specified in the brownfield site rehabilitation agreement, the person responsible for brownfield site rehabilitation may proceed to the next site rehabilitation task. However, the person responsible for brownfield site rehabilitation does so at its own risk and may be required by the department or local program to complete additional work on a previous task. Exceptions to this subsection include requests for "no further action," "monitoring only proposals," and feasibility studies, which must be approved prior to implementation.

(8) If the person responsible for brownfield site rehabilitation fails to comply with the brownfield site rehabilitation agreement, the department shall allow 90 days for the person responsible for brownfield site rehabilitation to return to compliance with the provision at issue or to negotiate a modification to the brownfield site rehabilitation agreement with the department for good cause shown. If an imminent hazard exists, the 90-day grace period shall not apply. If the project is not returned to compliance with the brownfield site rehabilitation agreement and a modification cannot be negotiated, the immunity provisions of s. [376.82](#) are revoked.

(9) The department is specifically authorized and encouraged to enter into delegation agreements with local pollution control programs approved under s. [403.182](#) to administer the brownfield program within their jurisdictions, thereby maximizing the integration of this process with the other local development processes needed to facilitate redevelopment of a brownfield area. When determining whether a delegation pursuant to this subsection of all or part of the brownfield program to a local pollution control program is appropriate, the department shall consider the following. The local pollution control program must:

- (a) Have and maintain the administrative organization, staff, and financial and other resources to effectively and efficiently implement and enforce the statutory requirements of the delegated brownfield program; and
- (b) Provide for the enforcement of the requirements of the delegated brownfield program, and for notice and a right to challenge governmental action, by appropriate administrative and judicial process, which shall be specified in the delegation.

The local pollution control program shall not be delegated authority to take action on or to make decisions regarding any brownfield site on land owned by the local government. Any delegation agreement entered into pursuant to this subsection shall contain such terms and conditions necessary to ensure the effective and efficient administration and enforcement of the statutory requirements of the brownfield program as established by the act and the relevant rules and other criteria of the department.

(10) Local governments are encouraged to use the full range of economic and tax incentives available to facilitate and promote the rehabilitation of brownfield areas, to help eliminate the public health and

environmental hazards, and to promote the creation of jobs and economic development in these previously run-down, blighted, and underutilized areas.

(11)(a) The Legislature finds and declares that:

1. Brownfield site rehabilitation and redevelopment can improve the overall health of a community and the quality of life for communities, including for individuals living in such communities.
2. The community health benefits of brownfield site rehabilitation and redevelopment should be better measured in order to achieve the legislative intent as expressed in s. 376.78.
3. There is a need in this state to define and better measure the community health benefits of brownfield site rehabilitation and redevelopment.
4. Funding sources should be established to support efforts by the state and local governments, in collaboration with local health departments, community health providers, and nonprofit organizations, to evaluate the community health benefits of brownfield site rehabilitation and redevelopment.

(b) Local governments may and are encouraged to evaluate the community health benefits and effects of brownfield site rehabilitation and redevelopment in connection with brownfield areas located within their jurisdictions. Factors that may be evaluated and monitored before and after brownfield site rehabilitation and redevelopment include, but are not limited to:

1. Health status, disease distribution, and quality of life measures regarding populations living in or around brownfield sites that have been rehabilitated and redeveloped.
2. Access to primary and other health care or health services for persons living in or around brownfield sites that have been rehabilitated and redeveloped.
3. Any new or increased access to open, green, park, or other recreational spaces that provide recreational opportunities for individuals living in or around brownfield sites that have been rehabilitated and redeveloped.
4. Other factors described in rules adopted by the Department of Environmental Protection or the Department of Health, as applicable.

(c) The Department of Health may and is encouraged to assist local governments, in collaboration with local health departments, community health providers, and nonprofit organizations, in evaluating the community health benefits of brownfield site rehabilitation and redevelopment.

(12) A local government that designates a brownfield area pursuant to this section is not required to use the term “brownfield area” within the name of the brownfield area designated by the local government.

History.—s. 4, ch. 97-277; s. 3, ch. 98-75; s. 11, ch. 2000-317; s. 2, ch. 2004-40; s. 44, ch. 2005-2; s. 7, ch. 2006-291; s. 5, ch. 2008-239; s. 2, ch. 2014-114.

Exhibit L

Select Year:

The 2017 Florida Statutes

[Title XII](#)
MUNICIPALITIES

[Chapter 166](#)
MUNICIPALITIES

[View Entire Chapter](#)

166.041 Procedures for adoption of ordinances and resolutions.—

(1) As used in this section, the following words and terms shall have the following meanings unless some other meaning is plainly indicated:

(a) “Ordinance” means an official legislative action of a governing body, which action is a regulation of a general and permanent nature and enforceable as a local law.

(b) “Resolution” means an expression of a governing body concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of the administrative business of the governing body.

(2) Each ordinance or resolution shall be introduced in writing and shall embrace but one subject and matters properly connected therewith. The subject shall be clearly stated in the title. No ordinance shall be revised or amended by reference to its title only. Ordinances to revise or amend shall set out in full the revised or amended act or section or subsection or paragraph of a section or subsection.

(3)(a) Except as provided in paragraph (c), a proposed ordinance may be read by title, or in full, on at least 2 separate days and shall, at least 10 days prior to adoption, be noticed once in a newspaper of general circulation in the municipality. The notice of proposed enactment shall state the date, time, and place of the meeting; the title or titles of proposed ordinances; and the place or places within the municipality where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.

(b) The governing body of a municipality may, by a two-thirds vote, enact an emergency ordinance without complying with the requirements of paragraph (a) of this subsection. However, no emergency ordinance or resolution shall be enacted which establishes or amends the actual zoning map designation of a parcel or parcels of land or that changes the actual list of permitted, conditional, or prohibited uses within a zoning category. Emergency enactment procedures for land use plans adopted pursuant to part II of chapter 163 shall be pursuant to that part.

(c) Ordinances initiated by other than the municipality that change the actual zoning map designation of a parcel or parcels of land shall be enacted pursuant to paragraph (a). Ordinances that change the actual list of permitted, conditional, or prohibited uses within a zoning category, or ordinances initiated by the municipality that change the actual zoning map designation of a parcel or parcels of land shall be enacted pursuant to the following procedure:

1. In cases in which the proposed ordinance changes the actual zoning map designation for a parcel or parcels of land involving less than 10 contiguous acres, the governing body shall direct the clerk of the governing body to notify by mail each real property owner whose land the municipality will redesignate by enactment of the ordinance and whose address is known by reference to the latest ad valorem tax records. The notice shall state the substance of the proposed ordinance as it affects that property owner and shall set a time and place for one or more public hearings on such ordinance. Such notice shall be given at least 30 days prior to the date set for the public hearing, and a copy of the notice shall be kept available for public inspection during the regular business hours of the office of the clerk of the governing body. The governing body shall hold a public hearing on the proposed ordinance and may, upon the conclusion of the hearing, immediately adopt the ordinance.

2. In cases in which the proposed ordinance changes the actual list of permitted, conditional, or prohibited uses within a zoning category, or changes the actual zoning map designation of a parcel or parcels of land involving 10 contiguous acres or more, the governing body shall provide for public notice and hearings as follows:

a. The local governing body shall hold two advertised public hearings on the proposed ordinance. At least one hearing shall be held after 5 p.m. on a weekday, unless the local governing body, by a majority plus one vote, elects to conduct that hearing at another time of day. The first public hearing shall be held at least 7 days after the day that the first advertisement is published. The second hearing shall be held at least 10 days after the first hearing and shall be advertised at least 5 days prior to the public hearing.

b. The required advertisements shall be no less than 2 columns wide by 10 inches long in a standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be placed in a newspaper of general paid circulation in the municipality and of general interest and readership in the municipality, not one of limited subject matter, pursuant to chapter 50. It is the legislative intent that, whenever possible, the advertisement appear in a newspaper that is published at least 5 days a week unless the only newspaper in the municipality is published less than 5 days a week. The advertisement shall be in substantially the following form:

NOTICE OF (TYPE OF) CHANGE

The (name of local governmental unit) proposes to adopt the following ordinance: (title of the ordinance).

A public hearing on the ordinance will be held on (date and time) at (meeting place).

Except for amendments which change the actual list of permitted, conditional, or prohibited uses within a zoning category, the advertisement shall contain a geographic location map which clearly indicates the area covered by the proposed ordinance. The map shall include major street names as a means of identification of the general area. In addition to being published in the newspaper, the map must be part of the online notice required pursuant to s. 50.0211.

c. In lieu of publishing the advertisement set out in this paragraph, the municipality may mail a notice to each person owning real property within the area covered by the ordinance. Such notice shall clearly explain the proposed ordinance and shall notify the person of the time, place, and location of any public hearing on the proposed ordinance.

(4) A majority of the members of the governing body shall constitute a quorum. An affirmative vote of a majority of a quorum present is necessary to enact any ordinance or adopt any resolution; except that two-thirds of the membership of the board is required to enact an emergency ordinance. On final passage, the vote of each member of the governing body voting shall be entered on the official record of the meeting. All ordinances or resolutions passed by the governing body shall become effective 10 days after passage or as otherwise provided therein.

(5) Every ordinance or resolution shall, upon its final passage, be recorded in a book kept for that purpose and shall be signed by the presiding officer and the clerk of the governing body.

(6) The procedure as set forth herein shall constitute a uniform method for the adoption and enactment of municipal ordinances and resolutions and shall be taken as cumulative to other methods now provided by law for adoption and enactment of municipal ordinances and resolutions. By future ordinance or charter amendment, a municipality may specify additional requirements for the adoption or enactment of ordinances or resolutions or prescribe procedures in greater detail than contained herein. However, a municipality shall not have the power or authority to lessen or reduce the requirements of this section or other requirements as provided by general law.

(7) Five years after the adoption of any ordinance or resolution adopted after the effective date of this act, no cause of action shall be commenced as to the validity of an ordinance or resolution based on the failure to strictly adhere to the provisions contained in this section. After 5 years, substantial compliance with the provisions contained in this section shall be a defense to an action to invalidate an ordinance or resolution for failure to comply with the provisions contained in this section. Without limitation, the common law doctrines of laches and

waiver are valid defenses to any action challenging the validity of an ordinance or resolution based on failure to strictly adhere to the provisions contained in this section. Standing to initiate a challenge to the adoption of an ordinance or resolution based on a failure to strictly adhere to the provisions contained in this section shall be limited to a person who was entitled to actual or constructive notice at the time the ordinance or resolution was adopted. Nothing herein shall be construed to affect the standing requirements under part II of chapter 163.

(8) The notice procedures required by this section are established as minimum notice procedures.

History.—s. 1, ch. 73-129; s. 2, ch. 76-155; s. 2, ch. 77-331; s. 1, ch. 83-240; s. 1, ch. 83-301; s. 2, ch. 95-198; s. 5, ch. 95-310; s. 5, ch. 2012-212.

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