

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda

 X Resolution or Ordinance (Blue) _____ *Waiver of First Requested*
_____ Recommendations of Boards, Commissions & Committees (Green)
_____ Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott R. Niehaus, Village Manager

DATE: May 12, 2015 (B of T) Date: May 21, 2015

TITLE: 1 E. Roosevelt Road – Highway Authority Agreement

SUBMITTED BY: Department of Public Works *g*

BACKGROUND/POLICY IMPLICATIONS:

The Department of Public Works transmits for your consideration a resolution authorizing signatures of President and Clerk on a Highway Authority Agreement for the property located at 1 E. Roosevelt Road.

Staff recommends that this request be approved.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X _____	Date _____
Finance Director X _____	Date _____
Village Manager X _____	Date _____

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda Distribution.

RESOLUTION

R_____

**A RESOLUTION AUTHORIZING SIGNATURE OF
PRESIDENT AND CLERK ON AN AGREEMENT**

WHEREAS, the Corporate Authorities of the Village of Lombard have received a Highway Authority Agreement between the Village of Lombard and 1 East Roosevelt, LLC, as attached hereto and marked Exhibit "A"; and

WHEREAS, the Corporate Authorities deem it to be in the best interest of the Village of Lombard to approve such agreement;

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS as follows:

SECTION 1: That the Village President be and hereby is authorized to sign on behalf of the Village of Lombard said agreement as attached hereto.

SECTION 2: That the Village Clerk be and hereby is authorized to attest said Agreement as attached hereto.

Adopted this 21st day of May, 2015.

Ayes: _____

Nays: _____

Absent: _____

Approved this 21st day of May, 2015.

Keith Giagnorio
Village President

ATTEST:

Sharon Kuderna
Village Clerk

APPROVAL AS TO FORM:

Thomas P. Bayer
Village Attorney



Illinois Environmental Protection Agency

Bureau of Land • 1021 N. Grand Avenue E. • P.O. Box 19276 • Springfield • Illinois • 62794-9276

HIGHWAY AUTHORITY AGREEMENT

This Agreement is entered into this _____ day of _____, 20____ pursuant to 35 Ill. Adm. Code 742.1020 by and between the (1) _____ 1 East Roosevelt, LLC _____ ("Property Owner") [or, in the case of a petroleum leaking underground storage tank (UST), the owner/operator of the tank ("Owner/Operator")] and (2) _____ Village of Lombard _____ [Name of Entity in Control of the Right-of-Way] ("Highway Authority"), collectively known as the "Parties."

[Use this paragraph for sites with petroleum leaking underground storage tank(s)]

WHEREAS, _____ 1 East Roosevelt, LLC _____ is the owner or operator of one or more leaking underground storage tanks presently or formerly located at _____ 1 East Roosevelt Road, Lombard, IL 60148 _____ ("the Site");

[Use this paragraph for sites that do not have petroleum leaking USTs]

WHEREAS, _____ is the owner of the property located at _____ ("the Site");

WHEREAS, as a result of one or more releases of contaminants at the above referenced Site ("the Release(s)"), 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 Owner/Operator or Property Owner is conducting corrective action in response to the Release(s);

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. [Use this paragraph if IEMA has issued an incident number] The Illinois Emergency Management Agency has assigned incident number(s) 20110037, 932243 to the Release(s).
3. Attached as Exhibit A is a scaled map(s) prepared by the Property Owner that shows the Site and surrounding area and delineates the current and estimated future extent of soil and groundwater contamination above the applicable Tier 1 residential remediation objectives as a result of the Release(s). [Use the following sentence if either soil or groundwater is not contaminated above applicable Tier 1 residential remediation objectives: Groundwater is not contaminated above the applicable Tier 1 residential remediation objectives.]
4. Attached as Exhibit B is a table(s) prepared by the Property Owner that lists 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 map(s) in Exhibit A.

5. Attached as Exhibit C is a scaled map prepared by the Property Owner 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. *[Use this paragraph if samples have not been collected within the Right-of-Way, sampling within the Right-of-Way is not practical, and contamination does not extend beyond the Right-of-Way.]* Because the collection of samples within the Right-of-Way is not practical, the Parties stipulate that, based on modeling, soil and groundwater contamination exceeding Tier 1 residential remediation objectives does not and will not extend beyond the boundaries of the Right-of- Way.
7. 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.
8. The Highway Authority agrees to prohibit within the Right-of-Way all potable and domestic uses of groundwater exceeding Tier 1 residential remediation objectives.
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. In addition, the Highway Authority and others using or working in the Right-of-Way under permit have the right to remove soil or groundwater from the Right-of-Way and dispose of the same in accordance with applicable environmental laws and regulations. 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 Release(s).
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 Release(s). 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

David P. Gorman, P.E.

(Contact at Highway Authority)

Address 1051 S. Hammerschmidt Avenue

City Lombard

State Illinois

Zip Code 60148

Property Owner or Owner/Operator

Name 1 East Roosevelt, LLC

Address 1259 South Main Street

City Lombard

State Illinois

Zip Code 60148

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

[NAME OF LOCAL GOVERNMENT]

Date: _____

By: _____

Its: _____

Property Owner or Owner/Operator

Date: 4-16-15

By: *George Orstotian*
Title

GABRIEL

Environmental Services

Exhibit A

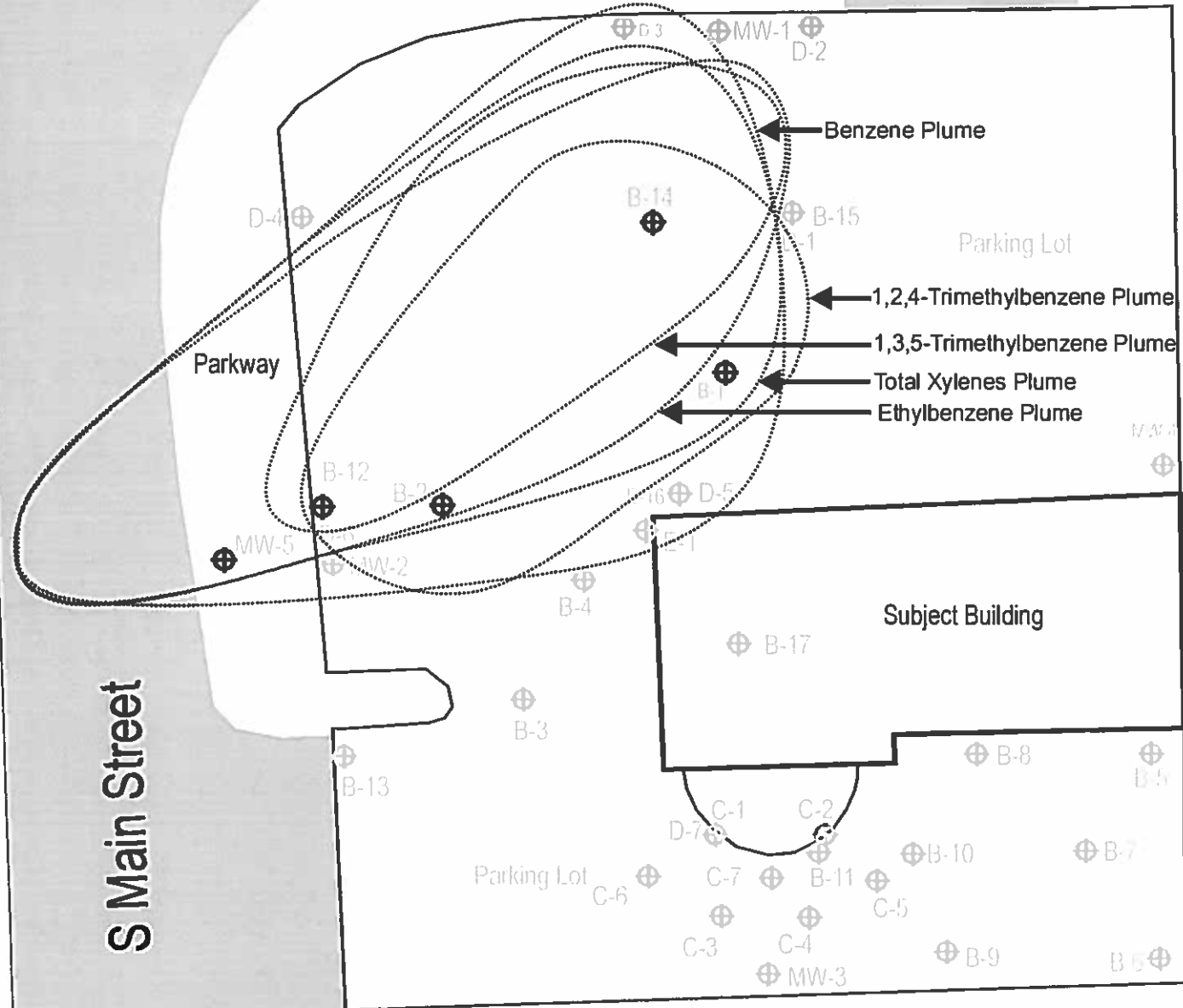


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E Roosevelt Road

Parkway

S Main Street



Combined Contaminant Plume Map
Client: Northwest Property Management
Site Location: 1 E Roosevelt Rd, Lombard

Project # 0601315
Drawn by: PB & ML
Date: 04/15/15

⊕ Soil Boring / Monitoring Well Location



Gabriel Environmental Services 1421 N. Elston Ave. phone (773) 486-2123
Chicago, IL 60642 fax (773) 486-0004

1 in. = 20 ft.

GABRIEL

Environmental Services

Exhibit B



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Table of Analysis – Soil
EPA Method SW-846-8260B:VOCs
1 E. Roosevelt Road, Lombard, IL

Sampled: 11/29/10, 11/30/10, 06/18/13, 10/24/13

Parameter	B-12 (4')	D-6 (8')	MW-5 (8')	MW-5 (12')	MW-5 (20')	Soil Component of GW Ingestion Exposure Route	Residential Ingestion / Inhalation	Industrial /Commercial Ingestion / Inhalation	Construction Worker Ingestion / Inhalation
Benzene	2.64	3.36	12.1	2.9	0.759	0.03	12 / 0.80	100 / 1.60	2,300 / 2.2
Ethylbenzene	7.27	25.1	77.3	<0.250	1.78	13	7,800 / 400	200,000 / 400	20,000 / 58
Total Xylenes	11.4	102	166	0.75	<0.500	150	16,000 / 320	410,000 / 320	41,000 / 5.6
1,2,4-Trimethylbenzene	5.99	42.3	---	---	---	---	--- / 87	--- / 140	--- / 8.9
1,3,5-Trimethylbenzene	1.66	10.1	---	---	---	2	780 / ---	20,000 / ---	20,000 / 0.79

Units = mg/Kg (parts per million)

--- = Not Available

BOLD = Result Exceeds IEPA TACO Tier 1/Class 1 SROs

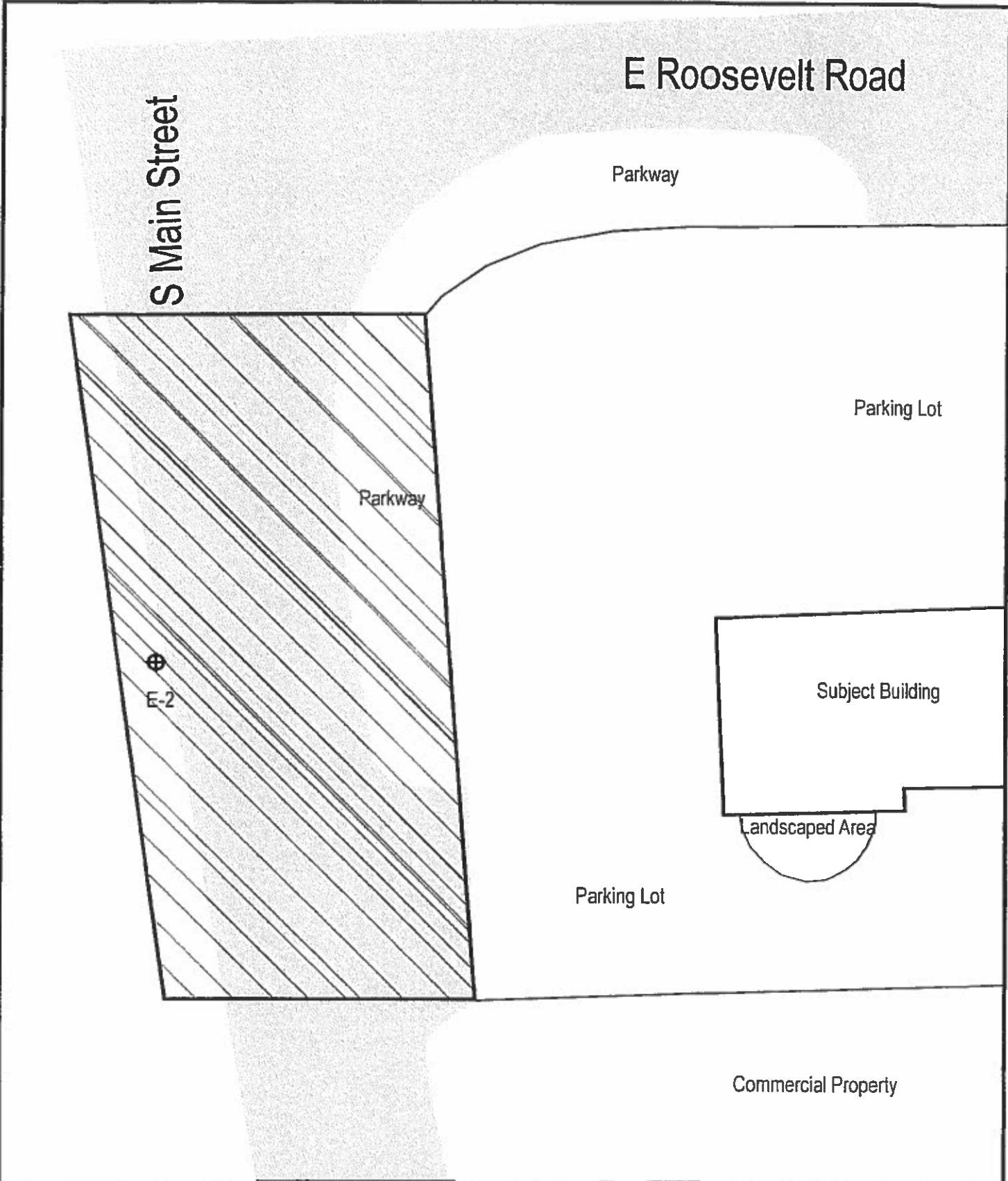
GABRIEL

Environmental Services

Exhibit C



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Highway Authority Agreement Map
 Client: Northwest Property Management
 Site location: 1 E Roosevelt Rd, Lombard

Project # 0601134
 Drawn by: PB
 Date: 12/19/13

Proposed area of Highway
 Authority Agreement



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 Chicago, IL 60622 fax (773) 486-0004

1 in. = 20 ft.