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Form 1075

Note: Pursuant to 310 CMR 40.1074(5), upon transfer of any interest in or a right to use the property or a portion thereof that is subject to this Notice of Activity and Use Limitation, the Notice of Activity and Use Limitation shall be incorporated either in full or by reference into all future deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer. Within 30 days of so incorporating the Notice of Activity and Use Limitation in a deed that is recorded or registered, a copy of such deed shall be submitted to the Department of Environmental Protection.

NOTICE OF ACTIVITY AND USE LIMITATION

M.G.L. c. 21E, § 6 and 310 CMR 40.0000

Disposal Site Name: Conway Park
DEP Release Tracking No.: 3-34868

This Notice of Activity and Use Limitation ("Notice") is made as of this ____ day of _____, 20____, by City of Somerville, 93 Highland Avenue, Somerville, Massachusetts, together with his/her/its/their successors and assigns (collectively "Owner").

W I T N E S S E T H:

WHEREAS, City of Somerville, is the owner in fee simple of that certain parcel of land located in Somerville, Middlesex County, Massachusetts with the buildings and improvements thereon, pursuant to a deed recorded with the Southern Middlesex Registry of Deeds in Book 6109, Page 478;

WHEREAS, said parcel of land, which is more particularly bounded and described in Exhibit A, attached hereto and made a part hereof ("Property") is subject to this Notice of Activity and Use Limitation. The Property is shown on a plan recorded in the Southern Middlesex Registry of Deeds in Plan Book XXX, Plan XX;

WHEREAS, the Property comprises all of a disposal site as the result of a release of oil and/or hazardous material. Exhibit B is a sketch plan showing the relationship of the Property subject to this Notice of Activity and Use Limitation to the boundaries of said disposal site existing within the limits of the Property and to the extent such boundaries have been established. Exhibit B is attached hereto and made a part hereof; and

WHEREAS, one or more response actions have been selected for the Disposal Site in accordance with M.G.L. c. 21E ("Chapter 21E") and the Massachusetts Contingency Plan, 310 CMR 40.0000 ("MCP"). Said response actions are based upon (a) the restriction of human access to and contact with oil and/or hazardous material in soil and/or (b) the restriction of certain activities occurring in, on, through, over or under the Property. A description of the basis for such restrictions, and the oil and/or hazardous material release event or site history that resulted in the contaminated media subject to the Notice of Activity and Use Limitation is attached hereto as Exhibit C and made a part hereof;

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NOW, THEREFORE, notice is hereby given that the activity and use limitations set forth in this Notice of Activity and Use Limitation are as follows:

1. Activities and Uses Consistent with Maintaining No Significant Risk Conditions. The following Activities and Uses are consistent with maintaining a Permanent Solution and a condition of No Significant Risk and, as such, may occur on the Property pursuant to 310 CMR 40.0000:

- (i) Activities and uses including active and passive recreational, commercial, and/or industrial activities that do not disturb contaminated soil at depths greater than 18 inches below grade in activity and Use Limitation (AUL) Area A and/or 36 inches below grade in AUL Area C (i.e., below the demarcation fabric);
- (ii) Utility work and/or construction activities including maintenance or repair of site improvements, or utility repair and maintenance, excavation, movement and handling of contaminated soils at depths greater than 18 inches below grade in AUL Area A and/or 36 inches below grade in AUL Area C (i.e., below the demarcation fabric) provided that such activities are conducted in accordance with the applicable Obligations and Conditions set forth in Paragraph 3;
- (iii) Such other activities or uses which, in the Opinion of a Licensed Site Professional, shall present no greater risk of harm to health, safety, public welfare or the environment than the activities and uses set forth in this Paragraph; and,
- (iv) Such other activities and uses not identified in Paragraph 2 as being Activities and Uses Inconsistent with maintaining No Significant Risk Conditions.

2. Activities and Uses Inconsistent with Maintaining No Significant Risk Conditions. The following Activities and Uses are inconsistent with maintaining a Permanent Solution and a condition of No Significant Risk pursuant to 310 CMR 40.0000, and, as such, may not occur on the Property:

- (i) Use of the Property for residential purposes;
- (ii) Growth of fruits and vegetables or any other agricultural product for human consumption that are in direct contact with soil at the Property, unless Best Management Practices, as outlined by the Massachusetts Department of Environmental Protection, are implemented; raised beds with imported clean soil are not restricted;
- (iii) Utility work and/or construction excavation activities on the Property a depth of greater than 18 inches below grade in AUL Area A and/or 36 inches below grade in AUL Area C (i.e., below the demarcation fabric) which may result in direct contact with and/or disturbance of contaminated soil unless such activity is conducted in accordance with Obligations set forth in Paragraph 3; and,
- (iv) Relocation of impacted soil at the Property from a depth of greater than 18 inches below grade in AUL Area A and/or 36 inches below grade in AUL Area C (i.e., below the

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demarcation fabric) unless a Licensed Site Professional renders an Opinion which states that such relocation is consistent with maintaining a condition of No Significant Risk; and,

(v) Any activities and use that may damage or alter the cover system installed on the Property unless an Licensed Site Professional Opinion is rendered which states that such alteration is consistent with maintaining a condition of No Significant Risk.

3. Obligations and Conditions. The following obligations and/or conditions are necessary and shall be undertaken and/or maintained at the Property to maintain a Permanent Solution and a condition of No Significant Risk:

(i) Prior to the performance of any subsurface activity or excavation which may result in direct contact with and/or disturbance of contaminated soil located at a depth of greater than 18 inches below grade in AUL Area A and/or 36 inches below grade in AUL Area C (i.e., below the demarcation fabric) at the Property, a written Health & Safety Plan (“HASP”) and a Soil Management Plan (“SMP”) must be developed and implemented in accordance with the guidelines set forth below.

A HASP must be prepared by a Certified Industrial Hygienist or other qualified individual sufficiently trained in worker health and safety requirements. The HASP should specify the type of personal protection equipment (e.g., clothing, respirators), engineering controls, and environmental monitoring necessary to prevent worker exposures to contaminated soil through dermal contact, ingestion, and/or inhalation. On-Site workers who may come in to contact with the contaminated soil should be appropriately trained on the requirements of the HASP, and the plan must be available on-Site throughout the course of the subsurface activity or excavation.

A SMP must be prepared by a Licensed Site Professional. The SMP should describe appropriate soil excavation, soil characterization, handling, storage, transport, and disposal procedures. The SMP should include a description of the engineering controls and monitoring procedures necessary to ensure that workers and receptors in the vicinity are not affected by fugitive dust or particulates. On-Site workers who may come in to contact with the contaminated soil should be appropriately trained on the requirements of the SMP, and the plan must be available on-site throughout the course of the subsurface activities or excavation.

(ii) The cover systems installed at the Property, consisting of a demarcation fabric and an 18 inch artificial turf cover system in AUL Area A and a 36 inch clean fill cover system in AUL Area C must be permanently maintained, repaired and/or replaced as necessary with a comparable cover system, to prevent exposure to underlying contaminated soil through direct contact, ingestion and/or inhalation, unless a Licensed Site Professional Opinion is rendered which states that removal or alteration of the cover system is consistent with maintaining a condition of No Significant Risk. The cover system may be temporarily removed or disturbed for subsurface activity authorized in accordance with this AUL, provided that the cover system is repaired or replaced with a comparable barrier to prevent future exposures to underlying contaminated soil immediately following the completion of the activity.

4. Proposed Changes in Activities and Uses. Any proposed changes in activities and uses at the Property which may result in higher levels of exposure to oil and/or hazardous material than

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currently exist shall be evaluated by a Licensed Site Professional who shall render an Opinion, in accordance with 310 CMR 40.1080, as to whether the proposed changes are inconsistent with maintaining a Permanent Solution and a condition of No Significant Risk. Any and all requirements set forth in the Opinion to meet the objective of this Notice shall be satisfied before any such activity or use is commenced.

5. Violation of a Permanent or Temporary Solution. The activities, uses and/or exposures upon which this Notice is based shall not change at any time to cause a significant risk of harm to health, safety, public welfare, or the environment or to create substantial hazards due to exposure to oil and/or hazardous material without the prior evaluation by a Licensed Site Professional in accordance with 310 CMR 40.1080, and without additional response actions, if necessary, to maintain a condition of No Significant Risk.

If the activities, uses, and/or exposures upon which this Notice is based change without the prior evaluation and additional response actions determined to be necessary by a Licensed Site Professional in accordance with 310 CMR 40.1080, the owner or operator of the Property subject to this Notice at the time that the activities, uses and/or exposures change, shall comply with the requirements set forth in 310 CMR 40.0020.

6. Incorporation Into Deeds, Mortgages, Leases, and Instruments of Transfer. This Notice shall be incorporated either in full or by reference into all future deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer, whereby an interest in and/or a right to use the Property or a portion thereof is conveyed in accordance with 310 CMR 40.1074(5).

Owner hereby authorizes and consents to the filing and recordation and/or registration of this Notice, said Notice to become effective when executed under seal by the undersigned Licensed Site Professional, and recorded and/or registered with the appropriate Registry(ies) of Deeds and/or Land Registration Office(s).

WITNESS the execution hereof under seal this ____ day of _____, 2022.

City of Somerville, Massachusetts

By: _____

Name:

Title:

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COMMONWEALTH OF MASSACHUSETTS

_____, ss

_____, 2022

On this ____ day of _____, 2022 before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose as authorized signatory for the City of Somerville, Massachusetts.

(Official signature and seal of Notary)

The undersigned Licensed Site Professional hereby certifies that in his Opinion this Notice of Activity and Use Limitation is consistent with a Permanent Solution and maintaining a condition of No Significant Risk.

Date: _____

George D. Naslas, PG, LSP
[Licensed Site Professional SEAL]

COMMONWEALTH OF MASSACHUSETTS

_____, ss

_____, 2022

On this ____ day of _____, 2022, before me, the undersigned notary public, personally appeared George D. Naslas, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed above, and acknowledged to me that he signed it voluntarily for its stated purpose as Licensed Site Professional.

(Official signature and seal of Notary)

Upon recording, return to:

The City of Somerville
93 Highland Ave.
Somerville, MA 02143

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Exhibit A

Bounding Description of the Property

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EXHIBIT A

Legal Description

A certain piece or parcel of land located in the City of Somerville, County of Middlesex, Massachusetts containing 2.82 acres and being shown as Land of City of Somerville on a map entitled "Record Survey Plan, Property & Topographic Survey, Conway Park, 550 Somerville Avenue, City of Somerville, County of Middlesex, Commonwealth of Massachusetts", by Weston & Sampson, PE, LS, LA, PC, scale 1"=20', dated October 2017, being more particularly bounded and described as follows:

Beginning at a drill hole on the southerly sideline of Somerville Avenue marking the northeasterly property corner of land of the City of Somerville, being 550 Somerville Avenue and the northwesterly corner of land now or formerly of PJC Realty MA, Inc.;

Thence running South 20° 44' 34" West, 267.18 feet along land now or formerly of PJC Realty MA, Inc. and land now or formerly of Dustin J. Denunzio, partly by each;

Thence running North 69° 08' 53" West, 1.00 feet along land now or formerly of Dustin J. Denunzio;

Thence running South 20° 44' 21" West, 232.24 feet land now or formerly of Dustin J. Denunzio, land now or formerly of Claudia Murrow, land now or formerly of Ellen Christenson, land now or formerly of Kumar Singh Dangi & Parbati Ral, the northwesterly terminus of Allen Court, land now or formerly of Kevin Emery and land now of formerly of Kezhen Guo, Trustee, partly by each;

Thence running northwesterly on a curve to the right having a radius of 3,514.07 feet, an arc length of 68.91 feet, northwesterly again on a curve to the right having a radius of 3,876.53 feet, an arc length of 99.22 feet, South 28° 21' 50" West, 11.21 feet and northwesterly on a curve to the right having a radius of 3,906.53 feet, an arc length of 94.87 feet along land now or formerly of the Massachusetts Bay Transportation Authority;

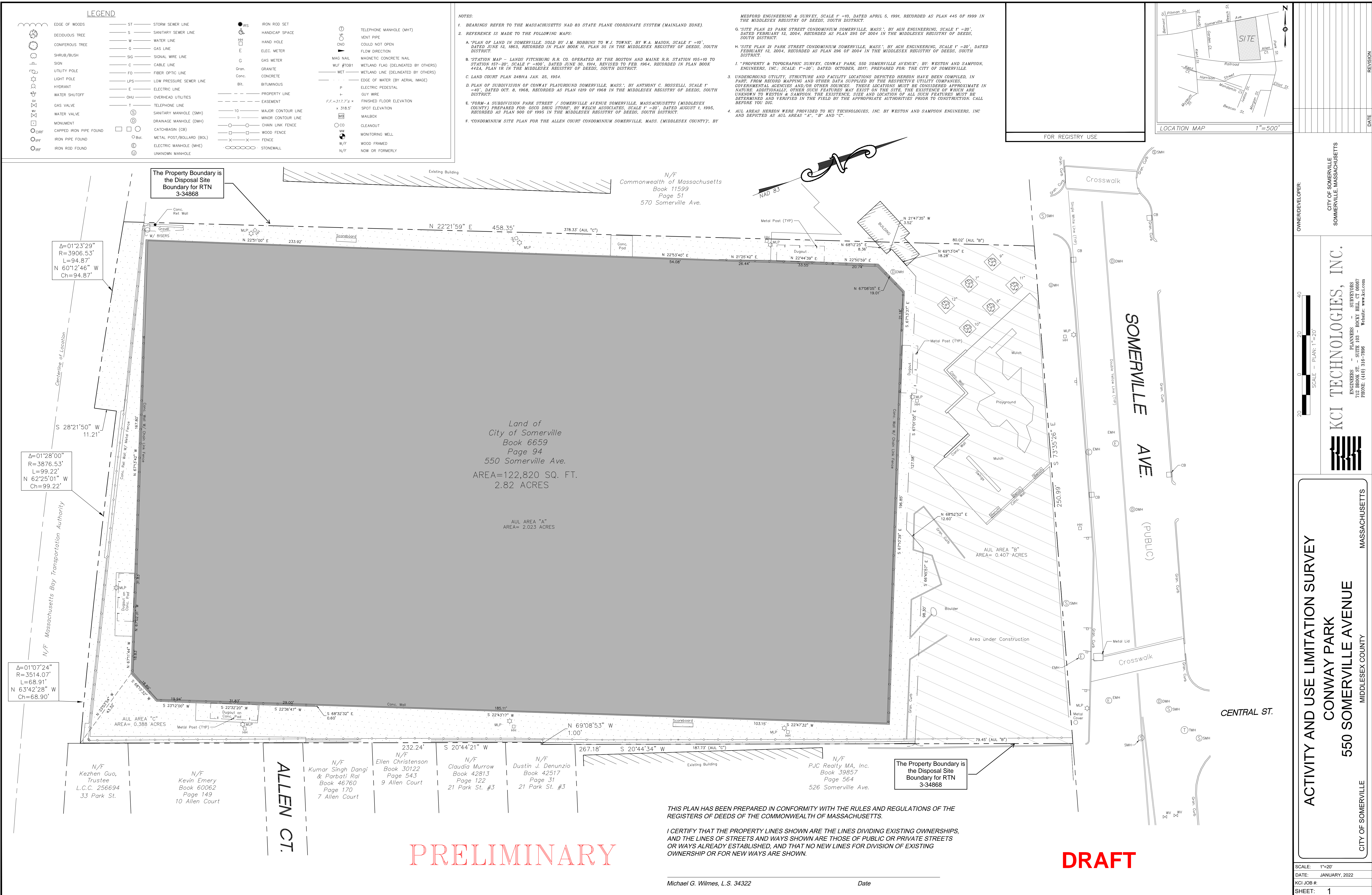
Thence running North 22° 21' 59" East, 458.35 feet along land now or formerly of the Commonwealth of Massachusetts to a drill hole on said southerly sideline of Somerville Avenue, said drill hole marking the northeasterly corner of land now or formerly of the Commonwealth of Massachusetts and the northwesterly corner of herein described parcel;

Thence running South 73° 35' 26" East, 250.99 feet along said southerly sideline of Somerville Avenue to the point or place of beginning.

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Exhibit B

**Sketch Plan Depicting the Property
Subject to AUL Relative to Boundaries of Disposal Site**



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Exhibit C

Description of:

**Site History;
Oil and/Hazardous Material Release Events(s);
Basis for Restrictions.**

EXHIBIT C

Narrative Describing the Basis for Activity and Use Limitation

The Property:
Conway Park
550 Somerville Avenue
Somerville, Massachusetts
Release Tracking Number 3-34868

This narrative describing the basis for the Activity and Use Limitation (AUL) was prepared in accordance with 310 CMR 40.1074(2)(e) through (g) of the Massachusetts Contingency Plan (MCP). The MCP requirements are shown in ***bold italic text*** in the following sections of this exhibit with the obligatory information provided in plain text.

40.1074(2)(e) a statement that specifies why the Notice of Activity and Use Limitation is appropriate to maintain a Permanent Solution and condition of No Significant Risk

Environmental assessments of the Property have identified polychlorinated biphenyls (PCBs), polycyclic aromatic hydrocarbons (PAHs), and metals in soil/fill. Release Tracking Number (RTN) 3-34868 was issued following the discovery of lead, PAHs, and PCBs above reportable concentrations (RCs). The release was reported to the Massachusetts Department of Environmental Protection (MassDEP) on March 29, 2018.

Response actions conducted under an Administrative Settlement Agreement and Order on Consent for Removal Action (AOC) with the Environmental Protection Agency (EPA), Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Docket No. 01-2020-0054), in 2021-2022 included the targeted removal of soil containing concentrations of PCBs at greater than 50 milligrams per kilogram (mg/kg), import and emplacement of clean fill material, and the construction of two cover systems to prevent access to the remaining PCB-impacted soil. Following remedial activities, soil having residual metals, PAH, and PCB impacts remains in place beneath the Property subject to restrictions.

Based on the restriction of use to other than residential on the Property, a condition of No Significant Risk (NSR) has been achieved for human health, safety, welfare and the environment at the Property; however, because certain uses are restricted, an AUL is required. As a condition of regulatory closure under the Federal PCB Regulations at 40 CFR 761(c), the AUL is also being used restrict activities and maintain the installed cover system at the Property. A description of the permitted activities and uses that consistent and inconsistent with the AUL, as well as obligations and conditions necessary to maintain NSR, are provided in Form 1075 to which this Exhibit is attached.

40.1074(2)(f) a concise summary of the oil and/or hazardous material release event(s) or site history (i.e., date of the release(s), to the extent known, release volume(s), and response actions taken to address the release(s)) that results in the contaminated media subject to the Notice of Activity and Use Limitation

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According to a March 2000 report prepared by a historical preservation consultant, titled Historical Report of Conway Park, a bleachery/dye works occupied at least some portion of Conway Park as early as 1801. Historical Sanborn® Fire Insurance maps confirm the Site was occupied by the Middlesex Bleachery and Dye Works in 1888 and the K.M. Gilmore and Co. Bleach, Dye and Print Works during 1900 to 1934. During this time, the extent of the former bleachery stretched beyond the bounds of the Site to the property immediately to the west, now developed as the Veterans Memorial Ice Rink. Numerous buildings with varied uses were located on-Site during this period, and a rail spur connected the Site to the adjacent Fitchburg Mainline (FML) to the south. According to the March 2000 historical report, the primary industrial use at the bleachery slowly shifted from bleachery and dye works to textile printing into the early 20th Century, and ultimately the facility closed sometime between 1931 and 1934. The bleachery buildings were demolished after the City took ownership in 1937, sometime between 1938 and 1943.

Later Sanborn® maps from 1950 to 1991 depict the Property as vacant land. A playground is labeled in the 1989 and 1991 maps in the area immediately west of the Playground, north of the Veterans Memorial Rink. Residences appear adjacent to the southeast of the Property in Sanborn® maps from 1888 to present day, with some retail shops appearing sporadically in the maps. Residences started appearing north of the Property (across Somerville Ave) as early as 1900.

The March 2000 historical report, supported by newspaper clippings dated 1943, indicates that the Property has remained a park since the early- to mid-20th Century. Historical aerial photos of the Property show major reconfigurations between 1969 and 1970 (Veteran's Memorial Rink built adjacent to Property), between 1970 and 1978 (baseball diamonds constructed in northwest and southeast corners of the Ballfield), and between 1995 and 2008 (baseball diamonds constructed in northeast and southwest corners of the Ballfield). The configuration of the Property prior to the 2021-2022 response actions and redevelopment, in both the Playground and the Ballfield, had been unchanged since the last major renovation in 1999 to 2001.

The grade of the southern portion of the Property was raised sometime between the demolition of the bleachery buildings (late 1930s to early 1940s) and the current configuration of the Ballfield. It is not possible to further narrow the timeline of emplacement of fill at the Property with certainty from the public historical record; however, based on its location close to the FML right-of-way, it is likely that the elevation of southern portion of the Property was raised prior to the construction of the southeast baseball diamond (present from 1970 to 1978).

The release of PCBs, metals, and PAHs to soil associated with RTN 3-34868 was identified during a subsurface investigation of the Property in October and November 2017, which was conducted as part of an evaluation for a retaining wall project in the southeastern corner of the Property and in advance of park redesign. Soil analytical results indicated that antimony, chromium, lead, zinc, PCBs, and several PAHs were present in soil above the applicable MCP RCS-1 thresholds under the MCP.

The exceedance of the applicable RCs triggered a 120-day notification condition in accordance with 310 CMR 40.0315. Subsequently, within 120 days of obtaining knowledge of the requirement to notify, the City submitted a release notification form (RNF) to MassDEP on March 29, 2018.

Due to the PCB detection, Weston & Sampson also notified the EPA Region 1 PCB Coordinator. Based on the data collected, the Property is regulated under both the MCP and TSCA. Weston &

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Sampson, together with the City, presented the findings of the initial assessment at a public meeting on March 29, 2018, the same day on which it submitted the RNF to MassDEP. From June 2018 until the execution of the AOC, the City and Weston & Sampson attended several meetings, either in-person or remotely, with both EPA and MassDEP, to discuss the project. We discussed additional Property assessment needs, remedial strategy and regulatory compliance to ensure the Project was following a path acceptable to both agencies. The AOC, which documented the agreement between the EPA and City of Somerville and the approach to the remediation, was finalized on August 26, 2020.

Remedial activities completed under the AOC included the targeted removal of soil having concentrations of PCBs at greater than 50 mg/kg, import and emplacement of clean fill material, and the construction of two cover systems to prevent access to the remaining PCB-impacted soil. In total, approximately 3,430 tons of topsoil having PCB concentrations less than 50 mg/kg, and 5,270 tons of soil having PCB concentrations greater than 50 mg/kg was excavated and transported off-site for disposal from June to September 2021. Work conducted by both the City and the EPA contractor was overseen by Mr. Gary Lipson, On-Scene Coordinator for EPA.

A Method 3 Risk Characterization (RC) was conducted for the Site using data representing post-remediation conditions. The Method 3 RC indicated that a condition of NSR to human health exists for the park visitor, maintenance worker, and construction utility worker, even using the maximum detected concentrations of constituents detected in soil in the Playground Area of the Site (AUL Area B). Although a condition of NSR existed for the Playground pre-remediation, the relocation of soils containing PCB concentrations greater than 1 mg/kg to the Ballfield as part of the Project further mitigated risk.

The Playground (AUL Area B) meets the requirements for a Permanent Solution with Conditions under the MCP. The only condition being the use of Best Management Practices should soil in the Playground area be used for growing produce. The limitation of other activities and uses is not required to maintain a condition of NSR; therefore, although the AUL will apply to the entire property, the only restrictions/limitations for activities within the Playground will be those outlined in the MCP at 40.1067(4). The Project met the goals outlined in both the RWP and the EPA-approved RBDP for the Playground, and meets the criteria for risk-based closure under TSCA.

The Method 3 RC also indicated that the Project was successful in achieving a condition of NSR of harm to human health for the park visitor, maintenance worker, and construction worker in the Ballfield (AUL Areas A and C). A condition of NSR does not exist for the residential use scenario in the Ballfield. Remedial activities completed as part of the Project also mitigated the potential public health and environmental health risks posed by PCBs in Site soil. Additionally, a condition of NSR to safety currently exists at the Site. Under the MCP and TSCA, an AUL is therefore required for the Ballfield portion of the property to mitigate potential use of the Site as a residence in the future. The Project met the goals outlined in both the RWP and the EPA-approved RBDP for the Ballfield, and meets the criteria for risk-based closure under TSCA.

Based on the response actions taken and the results of the Method 3 RC, the Site is divided into three separate AUL Areas based on the requirements for maintaining the cover systems. A summary of the AUL Areas is provided below:

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AUL Area	Description	Cover System Required
Area A	Artificial Turf Field Portion of Ballfield	Minimum 18-inch Artificial Turf System with Demarcation Barrier
Area B	Playground	No Requirement
Area C	Landscaped Portion of Ballfield	Minimum 36-inch Clean Fill System with Demarcation Barrier

40.1074(2) (g) a description of the contaminated media (i.e., media type(s), contaminant type(s), approximate vertical and horizontal extent) subject to the Notice of Activity and Use Limitation

The source, nature, and extent of oil and/or hazardous materials (OHM) at the Property have been investigated during assessment activities performed by Weston & Sampson between 2017 and 2019. Based on the results of assessments performed by Weston & Sampson and the available historical data, the following is a summary of the nature and extent of contamination identified at the Property:

Contaminants detected at the Property primarily include concentrations of metals, PAHs, and PCBs in Property soils above the RCS-1 and Method 1 S-1 Cleanup Standards at depths of 0 to approximately 15 feet bgs. While the metals and PAH impacts are generally consistent Property wide in the fill material, PCBs impacts were highest in the southwest quadrant of the Ballfield.

The source of metals and PAH contamination appears not to be attributed to a single release, but rather a result of the emplacement of contaminated soils containing ash, brick, concrete, coal fragments, wood fragments, slag, and wax paper capacitors at the Property. Although no definitive source has been identified for the widespread PCB impacts to soil at the Property, the wax paper capacitors, which show high concentrations of PCBs, were co-located with the highest concentrations of PCBs detected at the Property (southwestern Ballfield). During the remedial action conducted under the AOC, all soil having concentrations of PCB greater than 50 mg/kg was excavated and removed from the Property.

Groundwater is not impacted above the applicable Method 1 S-1/GW-2 and S-1/GW-3 Cleanup Standards. The closest surface water body to the Property is the Charles River, approximately 1 mile to the south-southwest. Because of the distance to the Charles River, surface water and sediment is not expected to be impacted by Property conditions.

The AUL is necessary to restrict future residential use of the Property in order to maintain a condition of NSR due to the presence of PCBs in soil as described above. The AUL also outlines the obligations and requirements for maintaining the cover systems installed during the 2021-2022 response actions conducted under the AOC.