

## Public Place Request for Proposals

Addendum No. 1

August 16, 2007

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### **Questions and Answers**

Enclosed is a summary of questions and answers discussed at the pre-submission conference that took place on July 31, 2007. Also included are questions and answers that were raised after that point.

### **Submission Requirements**

Please submit an electronic version of the Proposal, in addition to the ten (10) bound paper copies as set forth in *Section VII. Submission Requirements*.

### **Site Visit**

A site visit to Public Place is scheduled for Thursday, August 30<sup>th</sup>, 2007 at 10:00 am. Interested participants should contact Gabriella Amabile at [amabileg@hpd.nyc.gov](mailto:amabileg@hpd.nyc.gov) or (212) 863-6577 to RSVP. Those entering the site will have to sign a standard release, which will be made available at the time of the site visit. Please dress appropriately for the uneven site terrain.

### **Contact Information**

Contact information is provided for those individuals who indicated at the pre-submission conference that they are willing to share their contact information.

### **Attachments**

Attached in the addendum are the following documents: Public Place Voluntary Clean-Up Agreement, 2003 Public Place Site Topographical Map, Low Tide Shallow Groundwater Contours Map, and Depth to Groundwater Tables.

## Questions and Answers

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### Existing Conditions

Q: *What is the status of the lease of the concrete plant?*

A: Ferrara Brothers is operating on a month-to-month lease with the City. Concrete production is an important industry to New York City. The City is working very closely with Ferrara Brothers to identify a new location and relocation schedule that is designed to coordinate with both the remediation of Public Place and any proposed development.

Q: *Can you please provide information on the easements?*

A: There is an existing utility easement between Keyspan Corporation and the City of New York, and in the future an environmental easement will need to be enacted to ensure safe re-use of the former Citizen's Works Manufactured Gas Plant (MGP) site. The City and KeySpan will require that the utility tunnel easement, which crosses through the Site and goes beneath the Gowanus Canal, be maintained during and after construction. In addition, the State Department of Environmental Conservation (NYSDEC) and New York City Department of Environmental Protection (NYC DEP) will require that an environmental easement/deed restriction be in place on the property prior to disposition and occupancy. The environmental easement will run with the property to ensure any and all engineering controls and operation and maintenance obligations associated with the re-use of the property are properly maintained.

Q: *Is there an existing sewer that runs through the site?*

A: Based on records it appears that a 72" sewer main cross-dissects the warehouse site and traverses the Public Place site near the water's edge.

Q: *Is the KeySpan tunnel active? Will it remain active?*

A: The KeySpan utility tunnel is active, and remains necessary for KeySpan to provide service to existing customers in Brooklyn.

### Site Remediation

Q: *What is happening with the warehouse site immediately south of the Public Place site? It is also contaminated.*

A: The warehouse site located immediately adjacent to the south of the Public Place site was formerly part of the Citizen Works Manufactured Gas Plant parcel footprint. The site is known to be contaminated from former site operations, and it is the City's understanding that Keyspan Corporation is working with the owner to make the necessary arrangements to remediate this property.

Q: *How will the remediation process be coordinated with the warehouse site?*

A: KeySpan is working with the City of New York, the adjacent property owners and the NYSDEC to ensure that comprehensive remediation efforts are coordinated among the interested parties. The Mayor's Office of Environmental Coordination has been, and intends to remain, intimately involved in these efforts.

- Q: *Can remediation on the warehouse building happen if there is a building there?*  
A: The current plan calls for the demolition of the existing warehouse structure and excavation of waste material beneath the building in the vicinity of the former holders. The Mayor's Office of Environmental Coordination has been working with NYSDEC, KeySpan Corporation and the warehouse owner in an effort to ensure that the remediation of this site will occur in a timely, coordinated manner.
- Q: *Will KeySpan take care of the residential capping or will the developer be responsible for getting the DEC approvals for residential capping?*  
A: Keyspan will provide for the remediation of the site in accordance with their Voluntary Clean-up Agreement, and any subsequent agreements. The developer will be responsible for obtaining NYS DEC / NYC DEP approval of and for installing the capping system to allow for the safe residential re-use of the site, which has been termed a Development Site Improvement and not a Keyspan remedial measure/obligation.
- Q: *Is the site eligible for the Brownfield Cleanup Program?*  
A: The City of New York is currently in negotiation with KeySpan Corporation to submit a joint application for the State's Brownfield Clean-up Program (BCP), which is administered by NYSDEC.
- Q: *Is KeySpan under a time obligation to complete the clean-up?*  
A: Under the current agreement, there is not a time obligation for clean-up/remediation, however, the remediation of this site is one of the City's top priorities.
- Q: *What is the clean-up schedule?*  
A: Remedial design, which commenced in Spring 2007, is anticipated to take approximately 1 year. Upon completion of the remedial design and acceptance by the State DEC, the construction of the remedial components is expected to be completed in 18 – 24 months.
- Q: *Can we get access to the voluntary agreement with KeySpan?*  
A: A copy of the Voluntary Clean-up Agreement is attached.
- Q: *Since it looks like KeySpan will get bought by a larger entity, will the agreement still be in place? What measures will the City take to ensure the new entity goes through with the plan?*  
A: The Voluntary Clean-up Agreement will be binding on any successive entity. The City is intent on maintaining its relationship with the NYSDEC to ensure the investigation and remediation are carried out in a timely manner.
- Q: *Will KeySpan indemnify developers against any clean-up deficiencies?*  
A: No, neither the City nor KeySpan would indemnify the developer in their re-use of the site. However, through the BCP Program, the State would offer a limited liability release to parties that have completed the program. Additionally, the selected developer is encouraged to seek and secure an Environmental Impairment Policy (EIP) from an A-rated Insurer. This coverage should provide insurance in the event that there is a lawsuit brought against the site/entity due to a toxic tort or similar claim.

- Q: *Can an experienced developer take over KeySpan's clean-up work entirely and cut an agreement with them?*
- A: While the City has utilized this model in the past, it was not anticipated for the remediation of this site. Based on KeySpan's extensive experience with this site and in general with the remediation of Manufactured Gas Plant sites, it is unlikely that a development entity would have comparable experience.
- Q: *What kind of strategies will be used to keep the clean-up and the development areas separate?*
- A: Work zones will be formally established to keep areas separate.
- Q: *Is the site listed in the Federal or State superfund?*
- A: No.
- Q: *Where are the contaminants you will be removing going? How will they be transported?*
- A: KeySpan will be transporting and disposing of the material at a facility that is permitted to accept the waste material being generated. The number and types of facilities that accept this waste are limited, and KeySpan will need to determine the appropriate facility based on the facilities' capacity and cost. Our understanding is that the disposal facilities are not waster/barge accessible, so transportation would most likely be by truck.
- Q: *What measures will the City take to ensure the health and safety of the community?*
- A: The State DEC will monitor KeySpan's efforts to ensure they will not negatively impact the health and safety of the community, and will require that Keyspan institute and operate a community air monitoring program.
- Q: *What measures are being taken to clean the canal?*
- A: A long-term, multi-agency effort, including the United States Army Corp of Engineers and NYC DEP, is underway to address both the water and sediment quality in the canal. More information of this can be found at <http://www.nan.usace.army.mil/harbor/links/gowanus.pdf> .

#### Site Planning and Design

- Q: *Are there restrictions or limits on where the senior housing should be located or on funding sources that can be used for this component?*
- A: There are no restrictions as to where the senior housing can be located on the site. Please note that the use of the U.S. Department of Housing and Urban Development's section 202 Supportive Housing for the Elderly program may be limited due to the brownfield history of this site.
- Q: *What is the likelihood that the warehouse property is incorporated into the development site?*
- A: While the City has no plans to acquire the warehouse property on Block 471, Lot 200, proposals that include the property for private acquisition will be considered as long as affordability levels are maintained.

- Q: *Is the developer obligated to make the streets public?*  
A: There is no obligation that the streets be mapped as public streets; however, they must be publicly accessible.
- Q: *How do the streets affect the FAR?*  
A: Unmapped streets generate floor area for the development.
- Q: *The RFP states that "The developer is responsible for funding the construction of new roads and placement of utilities within the site." Will this be true whether or not the access streets are made public or private? For example, if we propose re-mapping of street onto the site as a public street, do we still need to bear the cost? What about future maintenance of the street and the utilities?*  
A: The developer is responsible for the construction of the streets and utilities for either public mapped streets or private streets. If the streets are private, the developer is responsible for ongoing maintenance. If the streets are public, mapped streets, they will have to be constructed according to the standards of the Department of Transportation (DOT), and provisions would need to be made for DOT to accept the streets and the responsibility of ongoing maintenance.
- Q: *Do you have a maximum density you do not want the proposal to go over?*  
A: The proposal should comply with the design guidelines as stated in Section IV.C. of the RFP. Additionally, the proposal should be compatible with the Department of City Planning's proposed land use framework for the Gowanus Canal Corridor, available at <http://www.nyc.gov/html/dcp/html/gowanus/index.shtml>.
- Q: *Is there a site survey/topographical map available?*  
A: A topographical map from 2003 is attached. Please note that some site conditions have changed since that time, and additional changes will occur when a concrete mound is removed from the south end of Parcel I and KeySpan remediates the site.
- Q: *What are the groundwater levels?*  
A: Attached to the addendum are a Low Tide Shallows Groundwater Contours map and Depth to Groundwater Tables that, in conjunction with the attached topographical map, determine the groundwater levels on the site.
- Q: *Do you have specific uses you would like to see in the bulkheads?*  
A: HPD is open to a variety of uses for the canal's edge however; the site plan must ultimately be compatible with the site remediation.
- Q: *What zoning district does the City envision for the site?*  
A: Development proposals should comply with both the design guidelines in Section IV.C. of the RFP and the land use framework for the Gowanus Canal Corridor created by the Department of City Planning. A zoning district that permits the selected development proposal will be chosen.
- Q: *Does HPD envision that the development will be phased?*  
A: Phasing of development would ideally occur in concordance with the phasing of the remediation of the site.

- Q: *What will the future use of the warehouse site be?*  
A: This is not known at this time, however, the warehouse site will also be remediated by KeySpan as part of the same Voluntary Clean-Up agreement governing Public Place.

#### Housing Affordability and Financing

- Q: *Can the 50% at 130% of AMI also be used for senior housing?*  
A: There is no restriction as to the maximum amount of senior housing that can be provided.
- Q: *How will HPD evaluate the proposals if a development team negotiates the acquisition of the warehouse site?*  
A: While inclusion of the adjacent site could enhance the site plan, the level of housing affordability should not be diminished by the acquisition of additional land.
- Q: *Is there a requirement on union/non-union and/or prevailing wages?*  
A: Prevailing wages are only required as stipulated by particular funding sources.
- Q: *What is the tradeoff between a purchase price and the affordable housing?*  
A: Each of these factors is given a weight as part of the competitive criteria listed in Section VI. B. of the RFP and should be considered in this context,
- Q: *What do you consider a competitive purchase price?*  
A: The purchase price will be assessed in the context of the entire proposal.
- Q: *What is the total percentage of units that are required to be affordable?*  
A: Fifty percent (50%) of the total units in the project must be affordable. Specifically, fifty percent (50%) of the total units must be affordable to households earning up to 130% of AMI, as adjusted by household size. Twenty percent (20%) of the total units must be affordable to households earning up to 80% of AMI, as adjusted by household size. The units that are at or below 80% of AMI are included within the units at or below 130% of AMI.

#### Other

- Q: *What information should be included on the typical floor plan for the RFP submission?*  
A: Full apartment layouts should be included in the typical floor plans.
- Q: *With the scale you are requiring, the site won't fit on 11 x 17 for easy reproduction, as requested. Please advise on what alternative would be acceptable for the reproduction you are referring to.*  
A: In order to keep the scale required, it may be necessary to divide the site on to separate pieces of paper.
- Q: *Exhibit I is listed as "HPD New Construction Sustainability Guidelines" with forms to complete. However, on Form A1 Completeness Checklist, exhibit/tab I is identified as "Environmental Proposal". Please clarify.*

A: Exhibit I is the HPD New Construction Sustainability Guidelines. These forms should be completed and submitted with the proposal. Please disregard references to "Environmental Proposal."

## PUBLIC PLACE RFP

PRE-SUBMISSION CONFERENCE ATTENDEES WHO INDICATED THEY WERE WILLING TO SHARE THEIR CONTACT INFORMATION

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NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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In the Matter of the Implementation of a **Voluntary Cleanup Agreement**

for: Carroll Gardens  
by: Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery-New York, "Volunteer"  
Index #: A2-0460-0502

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**WHEREAS**, the Department is responsible for the enforcement of the ECL and the NL and such laws provide the Department authority to enter into this Agreement;

**WHEREAS**, the Department has established a Voluntary Cleanup Program to address the environmental, legal, and financial barriers that hinder the redevelopment and reuse of contaminated properties;

**WHEREAS**, Volunteer represents, and the Department relied upon such representations in entering into this Agreement, that Volunteer's involvement with the Site is limited to the following: The Site is currently owned by the City of New York Board of Real Property. A coal gasification plant was located on the Site from the 1800s to the early 1960s. The owner of the Site and operator of the coal gasification plant was the Brooklyn Union Gas Company.

**WHEREAS**, the parties are entering into this Agreement in order to set forth a process through which the Department will approve and the Volunteer will implement activities designed to address in whole or in part environmental contamination at the Site; and

**WHEREAS**, the Department has determined that it is in the public interest to enter into this Agreement as a means to address environmental issues at the Site with private funds while ensuring the protection of human health and the environment;

**NOW, THEREFORE, IN CONSIDERATION OF AND IN EXCHANGE FOR THE MUTUAL COVENANTS AND PROMISES, THE PARTIES AGREE TO THE FOLLOWING:**

I. Site Specific Definitions

For purposes of this Agreement, the terms set forth in the Glossary attached to, and made a part of, this Agreement shall have the meanings ascribed to them in that Glossary. In addition, for purposes of this Agreement, the following terms shall have the following meanings:

A. "Contemplated Use": commercial use excluding day care, child care and medical care uses.

B. "Existing Contamination": There is contamination from the coal gasification plant that formerly operated at the Site, including manufactured gas plant ("MGP") residuals such as coal/coke ash, coal tar, purifier waste, or petroleum-based residues and other substances associated with MGP operations. The term also includes MGP contamination identified during

the implementation of this Agreement, the nature and extent of which were unknown or insufficiently characterized as of the effective date of this Agreement, but which shall have been fully characterized and addressed to the Department's satisfaction.

C. "Site": that parcel of real property located on the west shore of the Gowanus Canal at the corner of Smith and 5<sup>th</sup> Streets in Brooklyn, identified as Block 471, Lots 1 and 100 on the Kings County Tax Map. Exhibit "A" of this Agreement is a map of the Site showing its general location.

D. "Volunteer": Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery-New York, a business corporation organized under the laws of the State of New York, with offices located at One Metro Tech Center, Brooklyn, New York 11201-3851.

## II. Development, Performance and Reporting of Work Plans

### A. Work Plan Labels

The work plans ("Work Plan" or "Work Plans") under this Agreement shall be captioned as follows:

1. "Investigation Work Plan" if the Work Plan provides for the investigation of the nature and extent of contamination at the Site;
2. "IRM Work Plan" if the Work Plan provides for an interim remedial measure;
3. "Remedial Action Work Plan" if the Work Plan provides for the Site's remediation to cleanup levels sufficient to allow for the Contemplated Use of the Site; or
4. "OM&M Work Plan" if the Work Plan provides for post-remedial construction operation, maintenance, and/or monitoring.

### B. Submission/Implementation of Work Plans

1. The first proposed Work Plan to be submitted under this Agreement shall be submitted within forty (40) Days after the effective date of this Agreement. Thereafter, the Volunteer can submit such other and additional work plans it deems appropriate.

2. A proposed Work Plan shall be submitted for the Department's review and approval and shall include, at a minimum, a chronological description of the anticipated activities, a schedule for performance of those activities, and sufficient detail to allow the Department to evaluate that Work Plan. A Professional Engineer must prepare, sign, and seal all Work Plans other than an Investigation Work Plan. Upon the Department's written approval of a Work Plan, such Department-approved Work Plan shall be incorporated into and become an enforceable part of this Agreement and shall be implemented in accordance with the schedule contained therein. If the Department disapproves a Work Plan, the reasons for such disapproval shall be provided in writing. In the event the Department disapproves a Work Plan, within twenty (20) Days after receiving written notice of such disapproval, Volunteer shall elect in writing to (i) modify or expand it; (ii) complete any other Department-approved Work Plan(s); (iii) invoke dispute

resolution pursuant to Paragraph XIII; or (iv) terminate this Agreement pursuant to Subparagraph XII.A.

3. During all field activities, Volunteer shall have on-Site a representative who is qualified to supervise the activities undertaken. Such representative may be an employee or a consultant retained by Volunteer to perform such supervision.

C. Revisions to Work Plans

If revisions to a Work Plan are required to satisfy the objectives of such Work Plan, the parties will negotiate revisions which shall be attached to and incorporated into the relevant Work Plan and which shall be enforceable under this Agreement. If the parties cannot agree upon revisions to the relevant Work Plan, then unless the Volunteer invokes dispute resolution pursuant to Paragraph XIII, either party may terminate this Agreement pursuant to Subparagraph XII.A.

D. Submission of Final Reports

1. In accordance with the schedule contained in a Work Plan, Volunteer shall submit a final report which includes the caption of that Work Plan on the cover page. The final report pertaining to that Work Plan's implementation shall include but not be limited to: all data generated relative to the Site and all other information obtained as part of the implementation of the subject Work Plan; all of the assessments and evaluations required by the subject Work Plan; a statement of any additional data that must be collected; and "as-built" drawings, to the extent necessary, showing all changes made during construction. Additionally, the final report for an Investigation Work Plan shall contain a certification by the person with primary responsibility for the day to day performance of the activities under this Agreement that those activities were performed in full accordance with the Investigation Work Plan, and all other Work Plan final reports must contain such certification made by a Professional Engineer with primary responsibility for the day to day performance of the activities under this Agreement that all such activities were performed in full accordance with the Department approved Work Plan.

2. An OM&M Work Plan, if necessary, shall be submitted in accordance with the schedule set forth in the IRM Work Plan or Remedial Action Work Plan.

E. Review of Submittals other than Work Plans

1. The Department shall timely notify Volunteer in writing of its approval or disapproval of each submittal other than a Work Plan. All Department-approved submittals shall be incorporated into and become an enforceable part of this Agreement.

2. If the Department disapproves a submittal covered by this subparagraph, it shall specify the reasons for its disapproval and may request Volunteer to modify or expand the submittal. Within twenty (20) Days after receiving written notice that Volunteer's submittal has been disapproved, Volunteer shall elect in writing to either (i) modify or expand it; (ii) complete any other Department-approved Work Plan(s); (iii) invoke dispute resolution pursuant to Paragraph XIII; or (iv) terminate this Agreement pursuant to Subparagraph XII.A. If Volunteer

submits a revised submittal and it is disapproved, the Department and Volunteer may pursue whatever remedies may be available under this Agreement or under law.

3. Within sixty (60) Days of the Department's approval of a final report, Volunteer shall submit such additional Work Plans as it proposes to implement. Failure to submit any additional Work Plans within such period shall, unless other Work Plans are under review by the Department or being implemented by Volunteer, result in the termination of this Agreement pursuant to Subparagraph XII.B.

4. All approved final reports shall be submitted to the Department in an electronic format acceptable to the Department within thirty (30) Days of approval of such final report. If any document cannot be converted into electronic format, Volunteer shall so advise the Department and, if the Department concurs, submit such document in an alternative format acceptable to the Department.

F. Department's Determination of Need for Remediation

The Department will determine upon its approval of each final report dealing with the investigation of the Site whether remediation, or additional remediation as the case may be, is needed to allow the Site to be used for the Contemplated Use.

1. The Department shall timely notify Volunteer if it determines that remediation, or additional remediation, is not needed to allow the Site to be used for the Contemplated Use. If the Department determines that additional remediation is not needed and such determination is based upon use restrictions, Volunteer shall cause to be filed a Declaration of Covenants and Restrictions in accordance with Paragraph X within sixty (60) Days of receipt of the Department's determination. Upon receipt of a copy of such instrument, the Department will provide Volunteer with the Release described in Subparagraph II.H.

2. If the Department determines that remediation, or additional remediation, is needed to allow the Site to be used for the Contemplated Use, Volunteer may elect to submit for review and approval a proposed Work Plan (or a revision to an existing Remedial Action Work Plan for the Site) which addresses the remediation of Existing Contamination. Such proposed Work Plan shall include, among other requirements, an evaluation of the proposed remedy considering the factors set forth in 6 NYCRR 375-1.10(c)(1) through (c)(6), excluding consideration of cost-effectiveness. At a minimum, the remedial activities contemplated by the proposed Work Plan must eliminate or mitigate all significant threats to the public health and/or the environment and must result in the Site being protective of public health and the environment for the Contemplated Use. The Department will notice a proposed Work Plan addressing the Site's remediation for public comment in accordance with Subparagraph II.G of this Agreement. If Volunteer elects not to develop a Work Plan under this Subparagraph or either party concludes that a mutually acceptable Work Plan under this Subparagraph cannot be negotiated, then this Agreement shall terminate in accordance with Subparagraph XII.A.

*Remedy Selection*

G. Notice of Proposed Work Plan for the Site's Remediation

Whenever a Work Plan for the Site's remediation (other than an IRM Work Plan) is proposed, the Department will timely publish a notice in the Environmental Notice Bulletin to inform the public of the opportunity to submit comments on the proposed Work Plan within thirty (30) Days after the date of the issue in which the notice appears. The Department shall timely mail an equivalent notice to Kings County and the City of New York. The Department shall timely notify Volunteer following the close of the public comment period whether the proposed Work Plan needs to be revised. If the Department determines that revisions are necessary for Site conditions to be protective of the public health or the environment based upon the Contemplated Use, Volunteer agrees to negotiate revisions to the proposed Work Plan in accordance with Paragraph II.C. If either party concludes that such revisions cannot be negotiated, then this Agreement shall terminate in accordance with Paragraph XII. If the Department determines that no revisions are required, then the Work Plan shall be attached hereto as Exhibit "B."

H. Release and Covenant Not to Sue

Upon the Department's determination that (i) Volunteer is in compliance with the Agreement; (ii) no requirements other than those remedial actions, exclusive of OM&M activities, already conducted at the Site, if any, are necessary to assure that Site conditions are protective of the public health and the environment based upon the Contemplated Use; and (iii) Volunteer has complied, if required, with Paragraph X, the Department shall timely provide Volunteer with the Release and Covenant Not to Sue attached hereto as Exhibit "C," subject to the terms and conditions stated therein.

I. Submission of Annual Reports, if required

In the event that the remedy for the Site, if any, or any Work Plan for the Site requires operation, maintenance, and monitoring (OM&M), including reliance upon institutional or engineering controls, Volunteer shall cause the filing of an annual report by the 1<sup>st</sup> Day of the month following the anniversary of the start of the OM&M. Volunteer shall file such annual report until the Department determines that the Site can be closed out and so notifies Volunteer in writing. Such annual report shall be signed by a Professional Engineer and shall contain a certification that any institutional and engineering controls put in place pursuant to this Agreement are still in place, have not been materially altered, and are still effective in achieving their objectives. Volunteer shall notify the Department within twenty-four (24) hours of discovery of any upset, interruption, or termination of one or more controls without the prior approval of the Department. Further, Volunteer shall take all actions required by the Department to maintain conditions at the Site that achieve the objectives of the remedy and/or the Work Plan and are protective of public health and the environment. An explanation of such upset, interruption, or termination of one or more controls and the steps taken in response shall be included in the foregoing notice and in the annual report required by this Subparagraph as well as in any progress reports required by Paragraph III. Volunteer can petition the Department for a determination that the institutional and/or engineering controls may be terminated. Such petition must be supported by a Professional Engineer stating that such controls are no longer necessary for the protection of

public health and the environment. The Department shall not unreasonably withhold its approval of such petition.

### III. Progress Reports

Volunteer shall submit a written progress report of its actions under this Agreement to the parties identified in Subparagraph XI.A.1 by the 10<sup>th</sup> Day of each month commencing with the month subsequent to the approval of the first Work Plan and ending with the Termination Date, unless a different frequency is set forth in a Work Plan. Such reports shall, at a minimum, include: all actions relative to the Site during the previous reporting period and those anticipated for the next reporting period; all approved activity modifications (changes of work scope and/or schedule); all results of sampling and tests and all other data received or generated by or on behalf of Volunteer in connection with this Site, whether under this Agreement or otherwise, in the previous reporting period, including quality assurance/quality control information, information regarding percentage of completion, unresolved delays encountered or anticipated that may affect the future schedule, efforts made to mitigate such delays, and information regarding activities undertaken in support of the Citizen Participation Plan during the previous reporting period and those anticipated for the next reporting period.

### IV. Enforcement

This Agreement shall be enforceable as a contractual agreement under the laws of the State of New York. Volunteer shall not suffer any penalty or be subject to any proceeding or action if it cannot comply with any requirement of this Agreement as a result of a Force Majeure Event provided it notifies the Department in writing within ten (10) Working Days of when it obtains knowledge of any such event. Volunteer shall include in such notice the measures taken and to be taken to prevent or minimize any delays and shall request an appropriate extension or modification of this Agreement. Volunteer shall have the burden of proving by a preponderance of the evidence that an event qualifies as a Force Majeure Event pursuant to this Paragraph.

### V. Entry upon Site

A. Volunteer hereby consents, upon reasonable notice under the circumstances presented, to entry upon the Site or areas in the vicinity of the Site which may be under the control of Volunteer, by any duly designated officer or employee of the Department or any State agency having jurisdiction with respect to the matters addressed in a Department-approved Work Plan, and by any agent, consultant, contractor, or other person so authorized by the Commissioner, all of whom shall abide by the health and safety rules in effect for the Site, for (i) inspecting, sampling, and copying records related to the contamination at the Site; (ii) implementing the activities under this Agreement; and (iii) testing and any other activities necessary to ensure Volunteer's compliance with this Agreement. Upon request, Volunteer shall (i) provide the Department with suitable office space at the Site, including access to a telephone, to the extent available; and (ii) permit the Department full access to all non-privileged records relating to matters addressed by this Agreement. Raw data is not considered privileged and that portion of any privileged document containing raw data must be provided to the Department.

B. The Department shall have the right to take its own samples and scientific measurements and the Department and Volunteer shall have the right to obtain samples, duplicate samples, or both, of all substances and materials sampled. The Department shall make the results of all sampling and scientific measurements taken under this Subparagraph available to Volunteer.

VI. Payment of State Costs

A. Within forty-five (45) Days after receipt of an itemized invoice from the Department, Volunteer shall pay to the Department a sum of money which shall represent reimbursement for State Costs for work performed at or in connection with the Site prior to the effective date of this Agreement, as well as for negotiating this Agreement, and all costs associated with this Agreement, through and including the Termination Date.

B. Personal service costs shall be documented by reports of Direct Personal Service, which shall identify the employee name, title, biweekly salary, and time spent (in hours) on the project during the billing period, as identified by an assigned time and activity code. Approved agency fringe benefit and indirect cost rates shall be applied. Non-personal service costs shall be summarized by category of expense (e.g., supplies, materials, travel, contractual) and shall be documented by expenditure reports. The Department shall not be required to provide any other documentation of costs, provided however, that the Department's records shall be available consistent with, and in accordance with, Article 6 of the Public Officers Law.

C. Such invoice shall be sent to Volunteer at the following address:

Tracey Bell  
Project Manager  
KeySpan Corporation  
One Metro Tech Center  
Brooklyn, New York 11201

D. Each such payment shall be made payable to the Department of Environmental Conservation and shall be sent to:

Bureau of Program Management  
Division of Environmental Remediation  
New York State Department of Environmental Conservation  
625 Broadway, Albany, NY 12233-7010.

E. Each party shall provide written notification to the other within ninety (90) Days of any change in the foregoing addresses.

F. Volunteer may contest, in writing, invoiced costs under Subparagraph VI.A if it believes (i) the cost documentation contains clerical, mathematical, or accounting errors; (ii) the costs are not related to the State's activities reimbursable under this Agreement; or (iii) the Department is not otherwise legally entitled to such costs. If Volunteer objects to an invoiced cost, Volunteer shall pay all costs not objected to within the time frame set forth in Subparagraph

VI.A and shall, within thirty (30) Days of receipt of an invoice, identify in writing all costs objected to and identify the basis of the objection. This objection shall be filed with the BPM Director. The BPM Director or the BPM Director's designee shall have the authority to relieve Volunteer of the obligation to pay invalid costs. Within forty-five (45) Days of the Department's determination of the objection, Volunteer shall pay to the Department the amount which the BPM Director or the BPM Director's designee determines Volunteer is obligated to pay or commence an action or proceeding seeking appropriate judicial relief.

G. In the event any instrument for the payment of any money due under this Agreement fails of collection, such failure of collection shall constitute a violation of this Agreement, provided (i) the Department gives Volunteer written notice of such failure of collection, and (ii) the Department does not receive from Volunteer a certified check or bank check within fourteen (14) Days after the date of the Department's written notification.

## VII. Reservation of Rights

A. 1. Except as provided in the Release and Covenant Not to Sue (Exhibit "C") after its issuance and except as provided in Subparagraph VII.A.2, nothing contained in this Agreement shall be construed as barring, diminishing, adjudicating, or in any way affecting any of the Department's rights or authorities, including, but not limited to, the right to recover natural resource damages, the right to take any investigatory or remedial action deemed necessary, and the right to exercise summary abatement powers with respect to any person, including Volunteer.

2. Except for the Department's right to take any investigatory or remedial action deemed necessary as a result of a significant threat resulting from the Existing Contamination or to exercise summary abatement powers, the Department shall not take any enforcement action under ECL Article 27, Title 13, under CERCLA, under the NL, or under comparable statutory or common law theories of remedial liability with respect to the Existing Contamination, to the extent that such contamination is being addressed under the Agreement, against Volunteer or Volunteer's grantees, successors, or assigns during the implementation of this Agreement, provided such party is in compliance with the terms and provisions of this Agreement, including, without limitation, the requirements of all Work Plans and amendments thereto.

B. Except as otherwise provided in this Agreement, Volunteer specifically reserves all rights and defenses under applicable law to contest, defend against, dispute, or disprove any action, proceeding, allegation, assertion, determination, or order of the Department, including any assertion of remedial liability by the Department against Volunteer, and further reserves all rights including the rights to notice, to be heard, to appeal, and to any other due process respecting any action or proceeding by the Department, including the enforcement of this Agreement. The existence of this Agreement or Volunteer's compliance with it shall not be construed as an admission of any liability, fault, wrongdoing, or violation of law by Volunteer, and shall not give rise to any presumption of law or finding of fact which shall inure to the benefit of any third party.

C. Except as provided in Subparagraph XIV.O, Volunteer reserves such rights as it may have to seek and obtain contribution, indemnification, and/or any other form of recovery from its insurers and from other potentially responsible parties or their insurers, for past or future response and/or cleanup costs or such other costs or damages arising from contamination at the Site as provided under applicable law.

#### VIII. Indemnification

Volunteer shall indemnify and hold the Department, the State of New York, and their representatives and employees harmless for all claims, suits, actions, damages, and costs of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of this Agreement by Volunteer prior to the Termination Date except for liability arising from (i) vehicular ~~accidents occurring during travel to or from the Site;~~ or (ii) from willful, wanton, or malicious acts or omissions, or acts or omissions constituting gross negligence or criminal behavior by the Department, the State of New York, and/or their representatives and employees during the course of any activities conducted pursuant to this Agreement. The Department shall provide Volunteer with written notice no less than thirty (30) Days prior to commencing a lawsuit seeking indemnification pursuant to this Paragraph.

#### IX. Public Notice

A. Within thirty (30) Days after the effective date of this Agreement, Volunteer shall cause to be filed a Department-approved Notice of Agreement, which Notice shall be substantially similar to the Notice of Agreement attached to this Agreement as Exhibit "D," with the County Clerk in the county in which the Site is located (or the City Register if the Site is located in Manhattan, Bronx, Kings or Queens County) to give all parties who may acquire any interest in the Site notice of this Agreement. Within thirty (30) Days of such filing (or such longer period of time as may be required to obtain a certified copy provided Volunteer advises the Department of the status of its efforts to obtain same within thirty (30) Days), Volunteer shall provide the Department with a copy of such instrument certified by such County Clerk (or the City Register) to be a true and faithful copy. Volunteer may terminate such Notice on or after the Termination Date of this Agreement.

B. If Volunteer proposes to convey the whole or any part of Volunteer's ownership interest in the Site, or becomes aware of such conveyance, Volunteer shall, not fewer than forty-five (45) Days before the date of conveyance or within forty-five (45) Days after becoming aware of such conveyance, notify the Department in writing of the identity of the transferee and of the nature and proposed date of the conveyance, and shall notify the transferee in writing, with a copy to the Department, of the applicability of this Agreement. However, such obligation shall not extend to the granting of any rights under any mortgage, deed, trust, assignment, judgment, lien, pledge, security agreement, lease, or any other right accruing to a person not affiliated with Volunteer to secure the repayment of money or the performance of a duty or obligation.

X. Declaration of Covenants and Restrictions

A. Within thirty (30) Days after the Department's approval of a Work Plan which relies upon one or more institutional controls, or within thirty (30) Days after the Department's determination pursuant to Subparagraph II.F.1 that additional remediation is not needed based upon use restrictions, Volunteer shall submit to the Department for approval a Declaration of Covenants and Restrictions to run with the land which provides for covenants and restrictions consistent with the Work Plan. The submittal shall be substantially similar to Exhibit "E." Volunteer shall cause such instrument to be recorded with the County Clerk (or the City Register) in the county in which the Site is located within thirty (30) Days after the Department's approval of such instrument. Volunteer shall provide the Department with a copy of such instrument certified by the County Clerk (or the City Register) to be a true and faithful copy within thirty (30) Days of such recording (or such longer period of time as may be required to obtain a certified copy provided Volunteer advises the Department of the status of its efforts to obtain same within such 30 Day period).

B. Volunteer or the owner of the Site may petition the Department to modify or terminate the Declaration of Covenants and Restrictions filed pursuant to this Paragraph at such time as it can certify that the Site is protective of human health and the environment for residential uses without reliance upon the restrictions set forth in such instrument. Such certification shall be made by a Professional Engineer. The Department will not unreasonably withhold its consent.

XI. Communications

A. All written communications required by this Agreement shall be transmitted by United States Postal Service, by private courier service, or hand delivered.

1. Communication from Volunteer shall be sent to:

Robert Schick, P.E.  
Division of Environmental Remediation  
New York State Department of Environmental Conservation  
625 Broadway  
Albany, New York 12233-7017  
Note: four copies (one unbound) of work plans are required to be sent.

Kevin Carpenter, P.E.  
Division of Environmental Remediation  
New York State Department of Environmental Conservation  
625 Broadway  
Albany, New York 12233-7015

Gary Litwin  
Bureau of Environmental Exposure Investigation  
New York State Department of Health  
Flanigan Square  
547 River Street  
Troy, New York 12180-2216

Note: two copies of work plans are required to be sent, and

Dale Desnoyers, Esq.  
Division of Environmental Enforcement  
New York State Department of Environmental Conservation  
625 Broadway  
Albany, New York 12233-5500

2. Communication from the Department to Volunteer shall be sent to:

Tracey Bell  
Project Manager  
KeySpan Corporation  
One MetroTech Center  
Brooklyn, New York 11201-3851

John E. Reilly, Esq.  
Assistant General Counsel  
KeySpan Corporation  
One MetroTech Center  
Brooklyn, New York 11201-3851

B. The Department and Volunteer reserve the right to designate additional or different addressees for communication on written notice to the other.

C. Each party shall notify the other within ninety (90) Days after any change in the addresses listed in this Paragraph XI or in Paragraph VI.

XII. Termination of Agreement

A. 1. Volunteer may elect in writing to terminate this Agreement without cause while the Department may only elect to terminate this Agreement for cause, which shall be established so long as the Department's stated reason is not arbitrary and capricious. The

Department shall include in its notice of termination the basis for its election to terminate this Agreement.

2. In the event of either party's election to terminate this Agreement, this Agreement shall terminate effective the 5<sup>th</sup> Day after the non-terminating party's receipt of the written notification terminating this Agreement, except that such termination shall not affect the provisions contained in Paragraphs IV, VI and VIII and in Subparagraph XIV.O, nor Volunteer's obligation to ensure that it does not leave the Site in a condition, from the perspective of human health and environmental protection, worse than that which prevailed before any activities were commenced under this Agreement, which provisions and obligation shall survive the termination of this Agreement.

B. Notwithstanding Subparagraph XII.A, this Agreement shall terminate without notice in the event that Volunteer fails to submit additional Work Plans in accordance with Subparagraph II.E, unless other Work Plans are under review by the Department or being implemented by Volunteer.

### XIII. Dispute Resolution

A. If Volunteer disagrees with the Department's notice of disapproval of a submittal or a proposed Work Plan, disapproval of a final report, nullification of this Agreement pursuant to Subparagraph XIV.A.2, or rejection of Volunteer's assertion of a Force Majeure Event, Volunteer may, within thirty (30) Days of receipt of such notice, request in writing informal negotiations with the Department in an effort to resolve the dispute. A copy of such request shall be sent by Volunteer to the appropriate Remedial Bureau Chief in the Department's Central Office. The Department and Volunteer shall consult together in good faith and exercise best efforts to resolve any differences or disputes without resort to the procedures described in Subparagraph XIII.B. The period for informal negotiations shall not exceed thirty (30) Days from Volunteer's request for informal negotiations. If the parties cannot resolve a dispute by informal negotiations during this period, the Department's position shall be considered binding unless Volunteer notifies the Department in writing within thirty (30) Days after the conclusion of the thirty (30) Day period for informal negotiations that it invokes the dispute resolution provisions provided under Subparagraph XIII.B.

B. 1. Volunteer shall file with the OH&M a request for formal dispute resolution and a written statement of the issues in dispute, the relevant facts upon which the dispute is based, factual data, analysis, or opinion supporting its position, and all supporting documentation upon which Volunteer relies (hereinafter called the "Statement of Position"). A copy of such request and written statement shall be provided contemporaneously to the Director and to the parties listed under Subparagraph XI.A.1.

2. The Department shall serve its Statement of Position no later than twenty (20) Days after receipt of Volunteer's Statement of Position.

3. Volunteer shall have the burden of proving by substantial evidence that the Department's position does not have a rational basis and should not prevail. The OH&M can conduct meetings, in person or via telephone conferences, and request additional information from either party if such activities will facilitate a resolution of the issues.

4. The OH&M shall prepare and submit a report and recommendation to the Director. The Director shall issue a final decision resolving the dispute in a timely manner. The final decision shall constitute a final agency action and Volunteer shall have the right to seek judicial review of the decision pursuant to Article 78 of the CPLR provided that Volunteer notifies the Department within thirty (30) Days after receipt of a copy of the final decision of its intent to commence an Article 78 proceeding and commences such proceeding within sixty (60) Days after receipt of a copy of the Director's final decision. Volunteer shall be in violation of this Agreement if it fails to comply with the final decision resolving this dispute within forty-five (45) Days after the date of such final decision, or such other time period as may be provided in the final decision, unless it seeks judicial review of such decision within the forty-five (45) Day period provided. In the event that Volunteer seeks judicial review, Volunteer shall be in violation of this Agreement if it fails to comply with the final Court Order or settlement within thirty (30) Days after the effective date of such Order or settlement, unless otherwise directed by the Court. For purposes of this Subparagraph, a Court Order or settlement shall not be final until the time to perfect an appeal of same has expired.

5. The invocation of dispute resolution shall not extend, postpone, or modify Volunteer's obligations under this Agreement with respect to any item not in dispute unless or until the Department agrees or a Court determines otherwise. The invocation of the procedures set forth in this Paragraph XIII shall constitute a waiver of any and all other administrative remedies which may otherwise be available to Volunteer regarding the issue in dispute.

6. The Department shall keep an administrative record of any proceedings under this Paragraph XIII which shall be available consistent with Article 6 of the Public Officers Law.

7. Nothing in this Paragraph XIII shall be construed as an agreement by the parties to resolve disputes through administrative proceedings pursuant to the State Administrative Procedure Act, the ECL, or 6 NYCRR Part 622 or Section 375-2.1.

#### XIV. Miscellaneous

A. 1. Volunteer hereby certifies that all information known to Volunteer and all information in the possession or control of Volunteer and its agents which relates in any way to the contamination existing at the Site on the effective date of this Agreement, and to any past or potential future release of hazardous substances, pollutants, or contaminants at or from the Site,

and to its application for this Agreement, has been fully and accurately disclosed to the Department in conjunction with the Volunteer's application for the Voluntary Cleanup Program.

2. If the information provided and certifications made by Volunteer are not materially accurate and complete, this Agreement, except with respect to the provisions of Paragraphs IV, VI and VIII and Subparagraph XIV.O, at the sole discretion of the Department, shall be null and void *ab initio* fifteen (15) Days after the Department's notification of such inaccuracy or incompleteness or fifteen (15) Days after issuance of a final decision resolving a dispute pursuant to Paragraph XIII, whichever is later, and the Department shall reserve all rights that it may have, unless, however, Volunteer submits information within that fifteen (15) Day time period indicating that the information provided and the certifications made were materially accurate and complete.

B. Volunteer shall allow the Department to attend, and shall notify the Department at least seven (7) Working Days in advance of, any field activities to be conducted pursuant to this Agreement, as well as any pre-bid meetings, job progress meetings, substantial completion meeting and inspection, and final inspection and meeting; nothing in this Agreement shall be construed to require Volunteer to allow the Department to attend portions of meetings where privileged matters are discussed.

C. Volunteer shall use "best efforts" to obtain all Site access, permits, easements, rights-of-way, rights-of-entry, approvals, institutional controls, or authorizations necessary to perform Volunteer's obligations under this Agreement, except that the Department may exempt Volunteer from the requirement to obtain any permit issued by the Department for any activity that is conducted on the Site and that the Department determines satisfies all substantive technical requirements applicable to like activity conducted pursuant to a permit. If, despite Volunteer's best efforts, any access, permits, easements, rights-of-way, rights-of-entry, approvals, institutional controls, or authorizations required to perform this Agreement are not obtained within forty-five (45) Days after the effective date of this Agreement or within forty-five (45) Days after the date the Department notifies Volunteer in writing that additional access beyond that previously secured is necessary, Volunteer shall promptly notify the Department, and shall include in that notification a summary of the steps Volunteer has taken to obtain access. The Department may, as it deems appropriate and within its authority, assist Volunteer in obtaining access. If an interest in property is needed to implement an institutional control required by a Work Plan and such interest cannot be obtained, the Department may require Volunteer to modify the Work Plan pursuant to Subparagraph II.C of this Agreement to reflect changes necessitated by the lack of access and/or approvals.

D. Volunteer shall not be considered an operator of the Site solely by virtue of having executed and/or implemented this Agreement.

E. Volunteer shall provide a copy of this Agreement to each contractor hired to perform work required by this Agreement and shall condition all contracts entered into to carry

out the obligations identified in this Agreement upon performance in conformity with the terms of this Agreement. Volunteer or its contractor(s) shall provide written notice of this Agreement to all subcontractors hired to perform any portion of the work required by this Agreement. Volunteer shall nonetheless be responsible for ensuring that Volunteer's contractors and subcontractors perform the work in satisfaction of the requirements of this Agreement.

F. The paragraph headings set forth in this Agreement are included for convenience of reference only and shall be disregarded in the construction and interpretation of any provisions of this Agreement.

G. 1. The terms of this Agreement shall constitute the complete and entire agreement between the Department and Volunteer concerning the implementation of the activities required by this Agreement. No term, condition, understanding, or agreement purporting to modify or vary any term of this Agreement shall be binding unless made in writing and subscribed by the party to be bound. No informal advice, guidance, suggestion, or comment by the Department shall be construed as relieving Volunteer of Volunteer's obligation to obtain such formal approvals as may be required by this Agreement. In the event of a conflict between the terms of this Agreement and any Work Plan submitted pursuant to this Agreement, the terms of this Agreement shall control over the terms of the Work Plan(s) attached as Exhibit "B." Volunteer consents to and agrees not to contest the authority and jurisdiction of the Department to enter into or enforce this Agreement.

2. i. Except as set forth herein, if Volunteer desires that any provision of this Agreement be changed, other than a provision of a Work Plan or a time frame, Volunteer shall make timely written application to the Commissioner with copies to the parties listed in Subparagraph XI.A.1. The Commissioner or the Commissioner's designee shall timely respond.

ii. Changes to the Work Plan shall be accomplished as set forth in Subparagraph II.C of this Agreement.

iii. Changes to a time frame set forth in this Agreement shall be accomplished by a written request to the Department's project attorney and project manager, which request shall be timely responded to in writing. The Department's decision relative to a request for a time frame change shall be subject to dispute resolution pursuant to Paragraph XIII.

H. 1. If there are multiple parties signing this Agreement, the term "Volunteer" shall be read in the plural where required to give meaning to this Agreement. Further, the obligations of Volunteers under this Agreement are joint and several and the insolvency of or failure by any Volunteer to implement any obligations under this Agreement shall not affect the obligations of the remaining Volunteer(s) to carry out the obligations under this Agreement.

2. If Volunteer is a partnership, the obligations of all general partners, including limited partners who act as general partners, to finance and perform obligations under

this Agreement and to pay amounts owed to the Department under this Order are joint and several. In the event of the insolvency or other failure of any one or more of the general partners to implement the requirements of this Agreement, the remaining general partners shall complete all such requirements.

3. Notwithstanding the foregoing Subparagraphs XIV.H.1 and 2, if multiple parties sign this Agreement as Volunteers but not all of the signing parties elect, pursuant to Subparagraph II.F.2, to implement a Work Plan, then all Volunteers are jointly and severally liable for each and every obligation under this Agreement through the completion of activities in such Work Plan that all such parties consented to; thereafter, only those Volunteers electing to perform additional work shall be jointly and severally liable under this Agreement for the obligations and activities under such additional Work Plan(s). The parties electing not to implement the additional Work Plan(s) shall have no obligations under this Agreement relative to the activities set forth in such Work Plan(s). Further, only those Volunteers electing to implement such additional Work Plan(s) shall be eligible to receive the release and covenant not to sue as provided under Subparagraph II.H.

I. Except as provided in Subparagraph XIV.O, and to the extent authorized under 42 U.S.C. Section 9613, New York General Obligations Law Section 15-108, and any other applicable law, Volunteer shall be deemed to have resolved its liability to the State for purposes of contribution protection provided by CERCLA Section 113(f)(2) for "matters addressed" pursuant to and in accordance with this Agreement. "Matters addressed" in this Agreement shall mean all response actions taken to implement this Agreement for the Site and all response costs incurred and to be incurred by any person or party in connection with the work performed under this Agreement, which costs have been paid by Volunteer, including reimbursement of State Costs pursuant to this Agreement.

J. Volunteer, Volunteer's grantees, lessees, sublessees, successors, and assigns shall be bound by this Agreement. Any change in ownership of Volunteer including, but not limited to, any transfer of assets or real or personal property, shall in no way alter Volunteer's responsibilities under this Agreement.

K. All activities undertaken by Volunteer pursuant to this Agreement shall be performed in accordance with the requirements of all applicable Federal and State laws, regulations, and guidance documents.

L. Unless otherwise expressly provided herein, terms used in this Agreement which are defined in ECL Article 27, Title 13 or in regulations promulgated under such statute shall have the meaning assigned to them under said statute or regulations. Whenever terms listed in the Glossary attached hereto are used in this Agreement or in the attached Exhibits, the definitions set forth in the Glossary shall apply. In the event of a conflict, the definition set forth in the Glossary shall control.

M. Volunteer's obligations under this Agreement represent payment for or reimbursement of response costs, and shall not be deemed to constitute any type of fine or penalty.

N. This Agreement may be executed for the convenience of the parties hereto, individually or in combination, in one or more counterparts, each of which shall be deemed to have the status of an executed original and all of which shall together constitute one and the same.

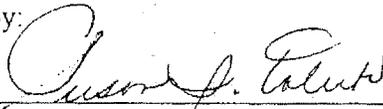
O. Volunteer and Volunteer's employees, servants, agents, lessees, sublessees, grantees, successors, and assigns hereby waive any right to pursue reimbursement of monies expended by Volunteer prior to the Termination Date as against the State or the Spill Fund, and agree to indemnify and hold harmless the Spill Fund from any and all legal or equitable claims, suits, causes of action, or demands whatsoever with respect to the Site that any of same has or may have as a result of Volunteer's entering into or fulfilling the terms of this Agreement with respect to the Site.

P. The effective date of this Agreement is the 10<sup>th</sup> Day after the date it is signed by the Commissioner or the Commissioner's designee.

DATED: AUG 21 2002

ERIN M. CROTTY, COMMISSIONER  
NEW YORK STATE DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION

By:



Susan I. Taluto  
Deputy Commissioner  
Water Quality and Environmental Remediation

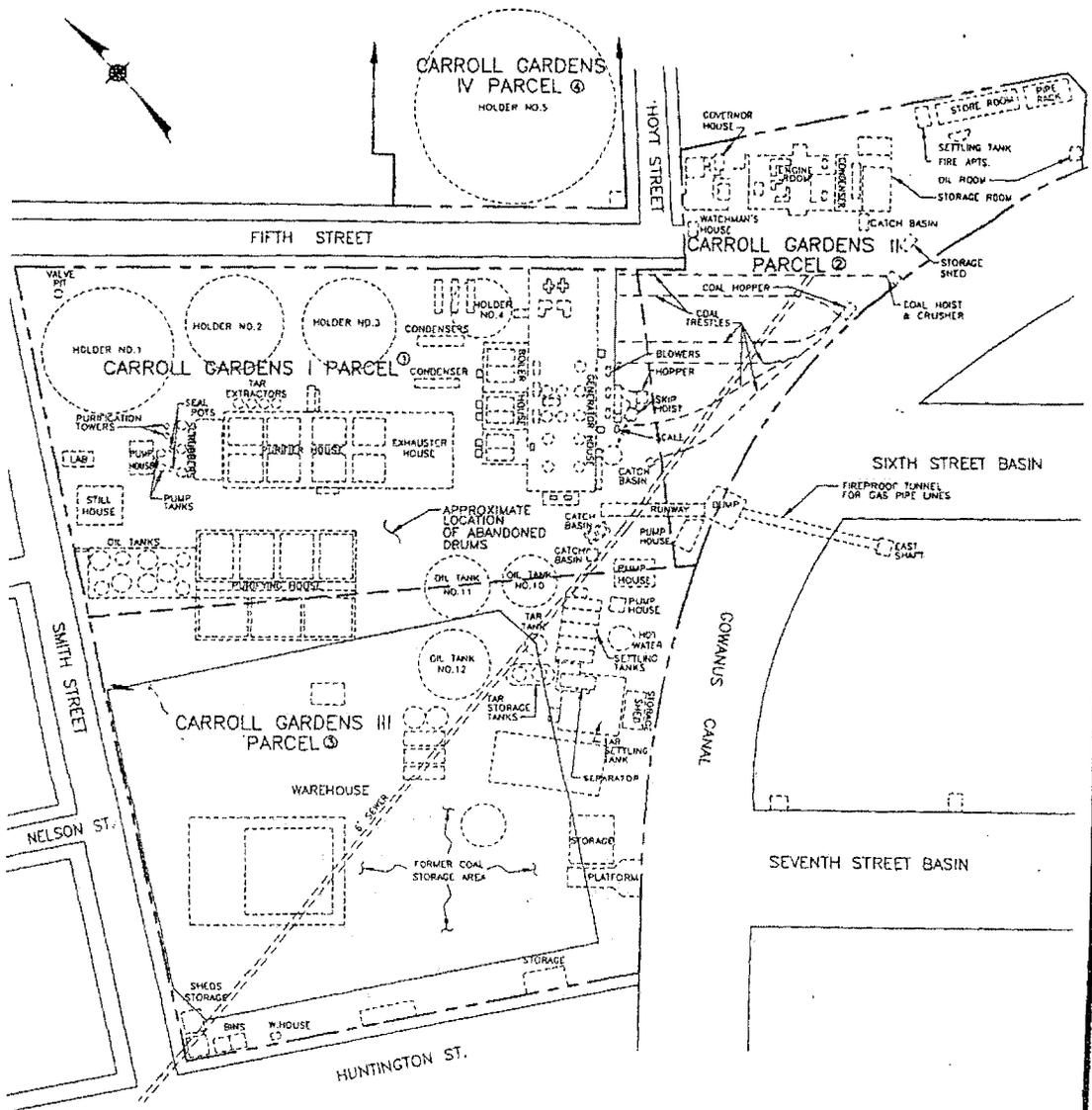


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**EXHIBIT "A"**

**Map of Site**

DATE: 10/11/01 10:00 AM



**NOTES:**

- ① CARROLL GARDENS I PARCEL (CURRENTLY OWNED BY NEW YORK CITY-VACANT LOT)
- ② CARROLL GARDENS II PARCEL (CURRENTLY OWNED BY NEW YORK CITY AND LEASED TO FERRARA BROS.-USED AS A CONCRETE PLANT)
- ③ CARROLL GARDENS III PARCEL (CURRENTLY OWNED BY VICHAR CO.-USED AS AN ELECTRONIC PRODUCTS WAREHOUSE)
- ④ CARROLL GARDENS IV PARCEL (CURRENT OWNERSHIP STATUS UNKNOWN)

**LEGEND**

- CURRENT STRUCTURES
- FORMER STRUCTURES
- APPROXIMATE BOUNDARY OF FORMER MGP SITE

**SOURCES:**

- CITIZENS WORKS (SITE PLAN), UNDATED
- CITIZENS WORKS SURVEY, JOHNSON AND HIGGINS, N.Y., FEBRUARY 4, 1928
- AERIAL PHOTO, AEROGRAPHICS, SEPTEMBER 6, 1962
- CITIZENS WORKS SMALL PROPERTY PLAN, THE BROOKLYN UNION GAS CO., JULY 2, 1965
- AERIAL PHOTO, AEROGRAPHICS, MARCH 11, 1998
- SANBORN MAPS (1888 THROUGH 1996)
- TECHNICAL SCOPE OF WORK, DIVIRKA AND BARTILUCCI, 2000



**DRAFT**

  
**G&E Consultants Inc.**  
 FIGURE 2  
**HISTORIC STRUCTURES  
 AND CURRENT SITE LAYOUT**  
CITIZENS GAS WORKS FORMER MGP SITE  
 CARROLL GARDENS, BOROUGH OF BROOKLYN, NEW YORK

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**EXHIBIT "B"**

**Department-Approved Work Plan(s)**

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## EXHIBIT "C"

### Release and Covenant Not to Sue

Unless otherwise specified in this letter, all terms used in this letter shall have the meaning assigned to them under the terms of the Voluntary Cleanup Agreement entered into between the New York State Department of Environmental Conservation (the "Department") and Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery-New York ("Volunteer"), Index No. A2-0460-0502 (the "Agreement").

The Department is pleased to report that the Department is satisfied that the Agreement's Work Plan(s) relative to the Site, located on the west shore of the Gowanus Canal at the corner of Smith and 5<sup>th</sup> Streets in Brooklyn, New York, has been successfully implemented.

The Department, therefore, hereby releases and covenants not to sue, and shall forbear from bringing any action, proceeding, or suit pursuant to the Environmental Conservation Law, the NL or the State Finance Law, and from referring to the Attorney General any claim for recovery of costs incurred by the Department, against Volunteer and Volunteer's lessees and sublessees, grantees, successors, and assigns, and their respective secured creditors, for the further investigation and remediation of the Site, based upon the release or threatened release of Covered Contamination, provided that (a) timely payments of the amounts specified in Paragraph VI of the Agreement continue to be or have been made to the Department, (b) appropriate deed restrictions remain recorded in accordance with Paragraph X of the Agreement, and (c) Volunteer and/or its' lessees, sublessees, successors, or assigns promptly commence and diligently pursue to completion the Work Plan providing for OM&M, if any. Nonetheless, the Department hereby reserves all of its respective rights concerning, and such release and covenant not to sue shall not extend to natural resource damages or to any further investigation or remedial action the Department deems necessary:

- due to migration off-Site of contaminants resulting in impacts that are not inconsequential to environmental resources, to human health, or to other biota and to off-Site migration of petroleum;
- due to environmental conditions or information related to the Site which were unknown at the time this Release and Covenant Not to Sue was issued and which indicate that the

Contemplated Use cannot be implemented with sufficient protection of human health and the environment;

- due to Volunteer's failure to implement the Agreement to the Department's satisfaction; or
- due to fraud committed by Volunteer in entering into or implementing this Agreement.

Additionally, the Department hereby reserves all of its rights concerning, and any such release and covenant not to sue shall not extend to Volunteer nor to any of Volunteer's lessees, sublessees, successors, or assigns who cause or allow a release or threat of release at the Site of any hazardous substance (as that term is defined at 42 USC 9601[14]) or petroleum (as that term is defined in Navigation Law § 172[15]), other than Covered Contamination; or cause or allow the use of the Site to change from the Contemplated Use to one requiring a lower level of residual contamination before that use can be implemented with sufficient protection of human health and the environment; nor to any of Volunteer's lessees, sublessees, successors, or assigns who are otherwise responsible under law for the remediation of the Existing Contamination independent of any obligation that party may have respecting same resulting solely from the Agreement's execution.

Notwithstanding the above, however, with respect to any claim or cause of action asserted by the Department, the one seeking the benefit of this release and covenant not to sue shall bear the burden of proving that the claim or cause of action, or any part thereof, is attributable solely to Covered Contamination.

Notwithstanding any other provision in this release, covenant not to sue, and forbearance,

- if with respect to the Site there exists or may exist a claim of any kind or nature on the part of the New York State Environmental Protection and Spill Compensation Fund against any party, nothing in this letter shall be construed or deemed to preclude the State of New York from recovering such claim.
- except as provided in this letter and the Agreement, nothing contained in this letter or the Agreement shall be construed as barring, diminishing, adjudicating, or in any way affecting any of the Department's rights (including, but not limited to, the right to recover natural resources damages) with respect to any party, including Volunteer.

- nothing contained in this letter shall prejudice any rights of the Department to take any investigatory or remedial action it deems necessary if Volunteer fails to comply with the Agreement or if contamination other than Existing Contamination is encountered at the Site.
- nothing contained in this letter shall be construed to prohibit the Commissioner or his duly authorized representative from exercising any summary abatement powers.
- nothing contained in this letter shall be construed to affect the Department's right to terminate the Agreement under the terms of the Agreement at any time during its implementation if Volunteer fails to comply substantially with the Agreement's terms and conditions.

In conclusion, the Department is pleased to be part of this effort to return the Site to productive use of benefit to the entire community.

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL  
CONSERVATION

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Appendix "A"**  
**(to Exhibit "C")**  
**Map of the Site**

**Exhibit "D"**

**NOTICE OF AGREEMENT**

This Notice is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2002 by \_\_\_\_\_ regarding a parcel of real property located on the west shore of the Gowanus Canal at the corner of Smith and 5<sup>th</sup> Streets in Brooklyn, known as Block 471, Lots 1 and 100 (the "Property"); and

**WHEREAS**, Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery-New York ("Volunteer"), entered into an agreement with the Department of Environmental Conservation, Index # A2-0460-0502 ( the "Agreement"), concerning contamination which is or may be present on the Property, which Agreement was executed on behalf of the Department on \_\_\_\_\_, 2002; and

**WHEREAS**, in return for the remediation of the Property pursuant to the Agreement to the satisfaction of the Department, the Department will provide Volunteer and its lessees and sublessees, grantees, successors, and assigns, including their respective secured creditors, with a release, covenant not to sue, and forbearance from bringing any action, proceeding, or suit related to the Site's further investigation or remediation, subject to certain reservations set forth in the Agreement; and

**WHEREAS**, pursuant to the Agreement, Volunteer agreed to cause the filing of a notice of the Agreement with the City Register for the City of New York in accordance with Paragraph IX of the Agreement to give all parties who may acquire any interest in the Property notice of the Agreement.

**NOW, THEREFORE**, Volunteer, for itself and for its successors and assigns, declares that:

1. This Notice of Agreement is hereby given to all parties who may acquire any interest in the Property; and
2. This Notice shall terminate upon the filing of a Notice of Termination of this Agreement after having first received approval to do so from the New York State Department of Environmental Conservation or having terminated the Agreement pursuant to its Paragraph XII.

**IN WITNESS WHEREOF**, Volunteer has executed this Notice of Agreement by its duly authorized representative.

Dated:

By: \_\_\_\_\_

STATE OF NEW YORK

)

) ss:

COUNTY OF

)

On the \_\_\_\_\_ day of \_\_\_\_\_, in the year 2002, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Signature and Office of individual  
taking acknowledgment

**Appendix "A"**

**(to Exhibit "D")**

**Map of the Property**

Exhibit "E"

DECLARATION of COVENANTS and RESTRICTIONS

THIS COVENANT is made the \_\_\_ day of \_\_\_\_\_ 2002, by \_\_\_\_\_, with offices located at \_\_\_\_\_.

WHEREAS, Carroll Gardens is the subject of a Voluntary Agreement executed by Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery-New York as part of the New York State Department of Environmental Conservation's (the "Department's") Voluntary Cleanup Program, namely that parcel of real property located on the west shore of the Gowanus Canal at the corner of Smith and 5<sup>th</sup> Streets in the Borough of Brooklyn, County of Kings State of New York, which is part of lands conveyed by \_\_\_\_\_ to \_\_\_\_\_ by deed dated \_\_\_\_\_ and recorded in the New York City Register's Office on \_\_\_\_\_ in Book \_\_\_\_\_ of Deeds at Page \_\_\_\_\_ and being more particularly described in Appendix "A," attached to this declaration and made a part hereof, and hereinafter referred to as "the Property"; and

WHEREAS, the Department approved a remedy to eliminate or mitigate all significant threats to the environment presented by the contamination disposed at the Property and such remedy requires that the Property be subject to restrictive covenants.

NOW, THEREFORE, \_\_\_\_\_, for itself and its successors and/or assigns, covenants that:

First, the Property subject to this Declaration of Covenants and Restrictions is as shown on a map attached to this declaration as Appendix "B" and made a part hereof, and consists of **[insert metes and bounds description]**

Second, unless prior written approval by the Department or, if the Department shall no longer exist, any New York State agency or agencies subsequently created to protect the environment of the State and the health of the State's citizens, hereinafter referred to as "the Relevant Agency," is first obtained, there shall be no construction, use or occupancy of the Property that results in the disturbance or excavation of the Property, which threatens the integrity of the soil cap, or which results in unacceptable human exposure to contaminated soils.

Third, the owner of the Property shall maintain the cap covering the Property by maintaining its grass cover or, after obtaining the written approval of the Relevant Agency, by capping the Property with another material.

Fourth, the owner of the Property shall prohibit the Property from ever being used for purposes other than for commercial use, excluding day care, child care, and medical care uses without the express written waiver of such prohibition by the Relevant Agency.

Fifth, the owner of the Property shall prohibit the use of the groundwater underlying the Property without treatment rendering it safe for drinking water or industrial purposes, as appropriate, unless the user first obtains permission to do so from the Relevant Agency.

Sixth, the owner of the Property shall continue in full force and effect any institutional and engineering controls required under the Agreement and maintain such controls unless the owner first obtains permission to discontinue such controls from the Relevant Agency.

Seventh, this Declaration is and shall be deemed a covenant that shall run with the land and shall be binding upon all future owners of the Property, and shall provide that the owner and its successors and assigns consent to enforcement by the Relevant Agency of the prohibitions and restrictions that Paragraph X of the Agreement require to be recorded, and hereby covenant not to contest the authority of the Relevant Agency to seek enforcement.

Eighth, any deed of conveyance of the Property, or any portion thereof, shall recite, unless the Relevant Agency has consented to the termination of such covenants and restrictions, that said conveyance is subject to this Declaration of Covenants and Restrictions.

**IN WITNESS WHEREOF**, the undersigned has executed this instrument the day written below.

[acknowledgment]

## Glossary of Terms

The following terms shall have the following meanings:

“BPM Director”: the Director of the Bureau of Program Management within the Division of Environmental Remediation.

“CERCLA”: the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601 et seq.

“Covered Contamination”: the concentrations of Existing Contamination remaining on the Site on the date that the Department issues the Release set forth in Exhibit “C.”

“CPLR”: the Civil Practice Law and Rules, as amended.

“Day”: a calendar day unless expressly stated to be a working day. “Working Day” shall mean a day other than a Saturday, Sunday or State holiday. In computing any period of time under this Agreement, where the last day would fall on a Saturday, Sunday or State holiday, the period shall run until the close of business of the next Working Day.

“Department”: the New York State Department of Environmental Conservation.

“Director”: the Division Director, Division of Environmental Remediation.

“ECL”: the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended.

“Force Majeure Event”: an event which is brought on as a result of fire, lightning, earthquake, flood, adverse weather conditions, strike, shortages of labor and materials, war, riot, obstruction or interference by adjoining landowners, or any other fact or circumstance beyond Volunteer’s reasonable control.

“Interim Remedial Measure” or “IRM”: an interim remedial measure which is a discrete set of activities, including removal activities, to address both emergency and non-emergency Site conditions, which can be undertaken without extensive investigation or evaluation, to prevent, mitigate, or remedy environmental damage or the consequences of environmental damage attributable to a Site.

“NL”: the Navigation Law, as amended.

“OH&M”: the Office of Hearings and Mediation Services.

“OM&M”: post-construction operation, maintenance, and monitoring; the last phase of a remedial program, which continues until the remedial action objectives for the Site are met.

“Professional Engineer”: an individual registered as a professional engineer in accordance with Article 145 of the New York State Education Law. If such individual is a member of a firm, that firm must be authorized to offer professional engineering services in the State of New York in accordance with Article 145 of the New York State Education Law.

“Spill Fund”: the New York State Environmental Protection and Spill Compensation Fund as established by Article 12, Part 3 of the NL.

“State Costs”: all the State’s response expenses related to the Site, including, but not limited to, direct labor, fringe benefits, indirect costs, travel, analytical costs, and contractor costs incurred by the State of New York for negotiating, implementing, overseeing, and administering this Agreement, and any other response costs as defined under CERCLA. Approved agency fringe benefit and indirect cost rates will be applied.

“Termination Date”: the date upon which (i) the Release (Exhibit “C”) is issued or the Department approves the final report relative to the OM&M at the Site, whichever is later; or (ii) the Agreement terminates pursuant to Paragraph XII or is nullified pursuant to Subparagraph XIV.A.2.

“Trustee”: the Trustee of New York State’s natural resources.

“USEPA”: the United States Environmental Protection Agency.

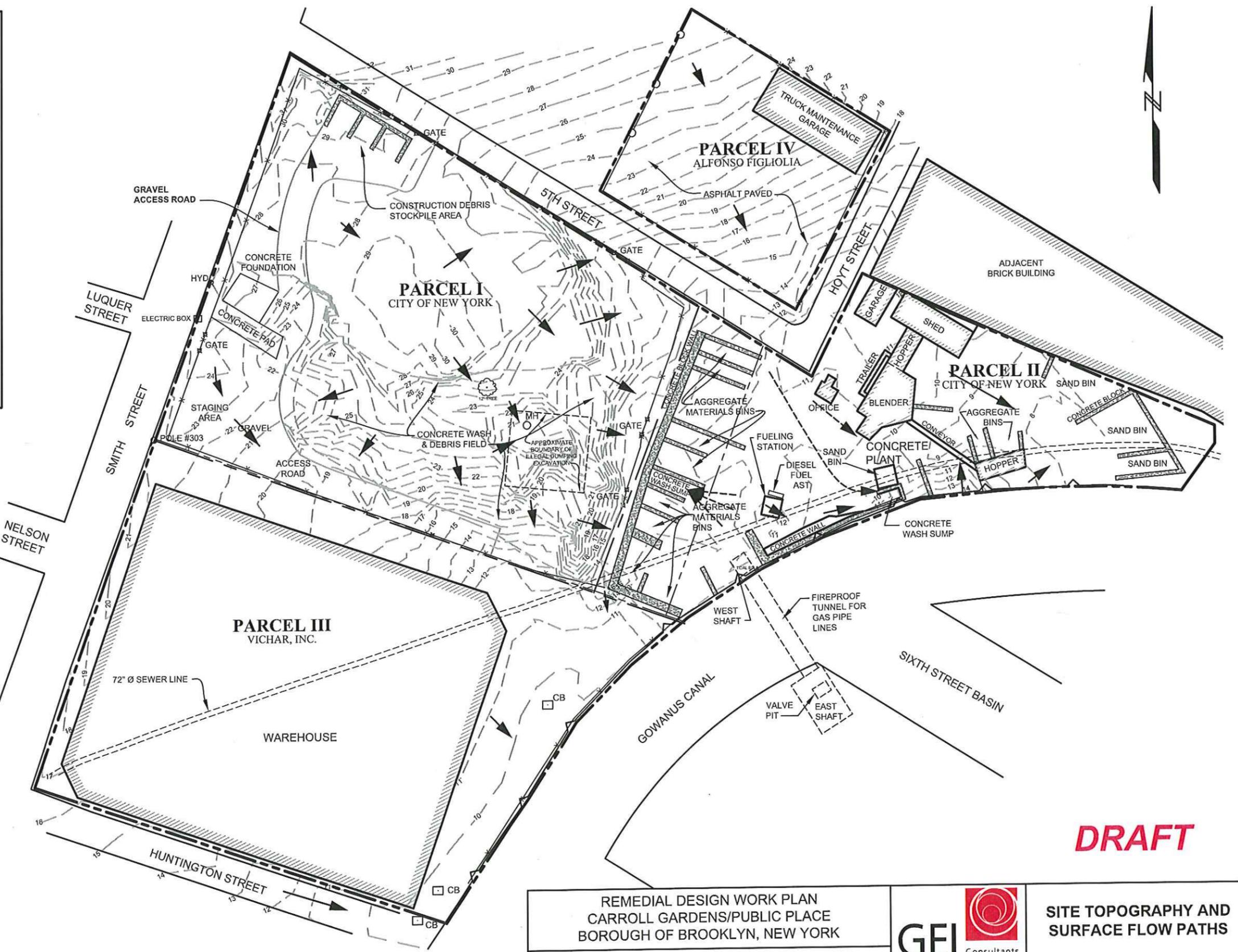
“Work Plan”: a Department-approved work plan, as may be modified, pertaining to the Site, that Volunteer shall implement and that is attached to this Agreement.

**LEGEND**

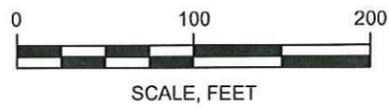
- APPROXIMATE BOUNDARY OF FORMER MGP SITE
- SEA WALL
- EXISTING CHAIN LINK FENCE
- CURRENT STRUCTURE
- EXISTING CATCH BASIN
- EXISTING MANHOLE
- EXISTING UTILITY POLE
- EXISTING HYDRANT
- GROUND SURFACE CONTOUR (FT.)
- SURFACE FLOW PATH
- ARTIFICIAL FLOW PATH
- TAX ASSESSOR'S BOUNDARIES
- PARCEL BOUNDARIES

**PARCEL I**    KEYSpan PARCEL NUMBER  
CITY OF NEW YORK    OWNER

- SOURCES:**
1. CITIZENS WORKS SURVEY, JOHNSON AND HIGGINS, N.Y., FEBRUARY 4, 1928.
  2. SANBORN MAPS (1886 THROUGH 1996)
  3. TECHNICAL SCOPE OF WORK, DVIRKA AND BARTILUCCI, 2000.
  4. CITIZENS WORKS PROPERTY PLAN, OCTOBER 1937, CORRECTED TO MAY 18, 1964.
  5. SURVEY OF SITE BOUNDARIES, EXISTING CONDITIONS, AND SAMPLE LOCATIONS CONDUCTED BY GEI CONSULTANTS, INC. ON 12/3-4/02, 3/4/03, 6/4-6/03, AND 7/10/03. SURVEYED BY NEW YORK STATE-LICENSED LAND SURVEYOR NO. 050146. HORIZONTAL DATUM: NEW YORK STATE PLANE COORDINATE SYSTEM (EAST ZONE, NORTH AMERICAN DATUM (NAD) 83). VERTICAL DATUM: NORTH AMERICAN VERTICAL DATUM (NAVD) 88.



**DRAFT**



REMEDIAL DESIGN WORK PLAN CARROLL GARDENS/PUBLIC PLACE BOROUGH OF BROOKLYN, NEW YORK	 <b>GEI</b> Consultants	<b>SITE TOPOGRAPHY AND SURFACE FLOW PATHS</b>
KEYSpan CORPORATION		Project 061140-19-2801    June 2007    Figure 2

**LEGEND**

APPROXIMATE BOUNDARY OF FORMER MGP SITE  
SEA WALL  
CURRENT STRUCTURE  
EXISTING CHAIN LINK FENCE  
EXISTING WOOD FENCE  
HISTORIC STRUCTURE  
HISTORIC CHEMICAL-FERTILIZER PLANT STRUCTURE  
EXISTING SOIL BORING WITH CMT GROUNDWATER MONITORING WELL LOCATION  
EXISTING SOIL BORING WITH GROUNDWATER MONITORING WELL LOCATION  
TAX ASSESSOR'S BOUNDARIES  
PARCEL BOUNDARIES  
KEYSPAN PARCEL NUMBER  
OWNER  
GROUNDWATER ELEVATION CONTOUR (FEET NAVD)  
APPROXIMATE EXTENT OF SHALLOW CLAY  
TAR SATURATED  
INFERRED SHALLOW GROUNDWATER FLOW DIRECTION  
LOW TIDE GROUNDWATER ELEVATION (FT NAVD)  
HIGH TIDE GROUNDWATER ELEVATION (FT NAVD)

**PARCEL I**  
CITY OF NEW YORK  
6

**DNAPL Sample ID** CGMW-03S  
Measurable DNAPL thickness (ft) 5.9  
Date Sampled 6/3/2003  
Total BTEX (mg/kg) 52200  
Total Carcinogenic PAHs (mg/kg) 22200  
Total PAHs (mg/kg) 325300  
Cyanide, Total (mg/kg) 0

**Monitoring Well ID** CGMW-01S  
Date Sampled 6/3/2003  
Total BTEX 13610  
Total Carcinogenic PAHs 0  
Total PAHs 5460  
Cyanide, Total 84.2 J

**Summary of DNAPL Analytical Results in Milligrams per Kilogram (mg/kg)**

**Summary of Groundwater Analytical Results in Micrograms per Liter (ug/L)**

BTEX: BENZENE, TOLUENE, ETHYLBENZENE, AND XYLENES  
PAHs: POLYCYCLIC AROMATIC HYDROCARBONS  
J: ESTIMATED CONCENTRATION

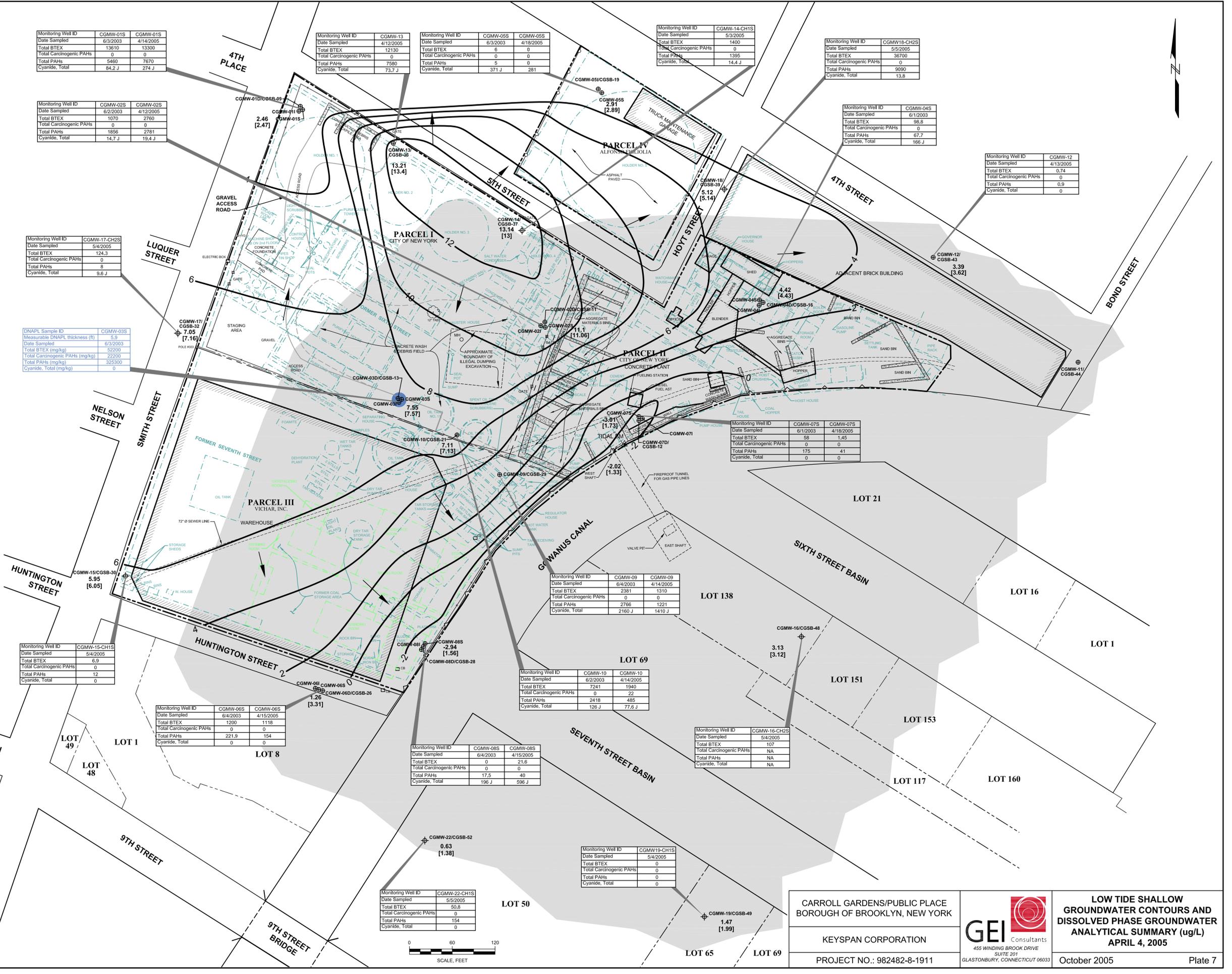
Monitoring Well ID	CGMW-01S	CGMW-01S
Date Sampled	6/3/2003	4/14/2005
Total BTEX	13610	13300
Total Carcinogenic PAHs	0	0
Total PAHs	5460	7670
Cyanide, Total	84.2 J	274 J

Monitoring Well ID	CGMW-02S	CGMW-02S
Date Sampled	6/2/2003	4/12/2005
Total BTEX	1070	2760
Total Carcinogenic PAHs	0	0
Total PAHs	1856	2781
Cyanide, Total	14.7 J	19.4 J

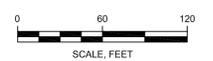
Monitoring Well ID	CGMW-17-CH2S
Date Sampled	5/4/2005
Total BTEX	124.3
Total Carcinogenic PAHs	0
Total PAHs	8
Cyanide, Total	9.6 J

DNAPL Sample ID	CGMW-03S
Measurable DNAPL thickness (ft)	5.9
Date Sampled	6/3/2003
Total BTEX (mg/kg)	52200
Total Carcinogenic PAHs (mg/kg)	22200
Total PAHs (mg/kg)	325300
Cyanide, Total (mg/kg)	0

- SOURCES:**
- CITIZENS WORKS SURVEY, JOHNSON AND HIGGINS, N.Y., FEBRUARY 4, 1928.
  - SANBORN MAPS (1886 THROUGH 1996)
  - TECHNICAL SCOPE OF WORK, DVIRKA AND BARTILUCCI, 2000.
  - CITIZENS WORKS PROPERTY PLAN, OCTOBER 1937, CORRECTED TO MAY 18, 1964.
  - CARROLL GARDENS/PUBLIC PLACE, BOROUGH OF BROOKLYN, NEW YORK SITE PLAN, METCALF & EDDY, DECEMBER 2004.
  - SURVEY OF SITE BOUNDARIES, EXISTING CONDITIONS, AND SAMPLE LOCATIONS CONDUCTED BY GEI CONSULTANTS, INC. ON 12/3-4/02, 3/4/03, 6/4-6/03, 7/10/03, 2/08/05 AND 4/04/05. SURVEYED BY NEW YORK STATE LICENSED LAND SURVEYOR NO. 050146. HORIZONTAL DATUM: NEW YORK STATE PLANE COORDINATE SYSTEM (EAST ZONE, NORTH AMERICAN DATUM (NAD) 83). VERTICAL DATUM: NORTH AMERICAN VERTICAL DATUM (NAVD) 88.
  - NEW YORK CITY OPEN ACCESSIBLE SPACE INFORMATION SYSTEM <http://www.oasinc.net>, ACCESSED AUGUST 2004.



Monitoring Well ID	CGMW-22-CH1S
Date Sampled	5/5/2005
Total BTEX	50.8
Total Carcinogenic PAHs	0
Total PAHs	154
Cyanide, Total	0



CARROLL GARDENS/PUBLIC PLACE  
BOROUGH OF BROOKLYN, NEW YORK

KEYSPAN CORPORATION

PROJECT NO.: 982482-8-1911



**LOW TIDE SHALLOW GROUNDWATER CONTOURS AND DISSOLVED PHASE GROUNDWATER ANALYTICAL SUMMARY (ug/L)**  
APRIL 4, 2005

October 2005 Plate 7

**Table 5  
Groundwater Depths and Elevations  
Carroll Gardens/Public Place**

Monitoring Well	Top of Casing (feet NAVD)	Round 1: June 5, 2003				Round 2: July 10, 2003		Round 3: April 4, 2005				Round 4: April 11, 2005			
		Groundwater Depth from TOC (feet)		Groundwater Elevation (feet NAVD)		Groundwater depth from TOC (feet)	Groundwater Elevation (feet NAVD)	Groundwater Depth from TOC (feet)		Groundwater Elevation (feet NAVD)		Groundwater Depth from TOC (feet)		Groundwater Elevation (feet NAVD)	
		High Tide	Low Tide	High Tide	Low Tide	Low Tide	Low Tide	High Tide	Low Tide	High Tide	Low Tide	High Tide	Low Tide	High Tide	Low Tide
GEI-MW-01S	31.64	30.87	30.87	0.77	0.77	29.83	1.81	29.17	29.18	2.47	2.46	29.1	28.99	2.54	2.65
GEI-MW-01I	31.58	30.84	30.83	0.74	0.75	29.82	1.76	29.15	29.18	2.43	2.4	29	28.99	2.58	2.59
GEI-MW-01D	31.56	30.77	30.78	0.79	0.78	29.75	1.81	29.07	29.11	2.49	2.45	28.95	28.94	2.61	2.62
GEI-MW-02S	15.4	4.07	4.08	11.33	11.32	5.56	9.84	4.34	4.3	11.06	11.1	4.62	4.66	10.78	10.74
GEI-MW-02I	15.42	14.21	14.41	1.21	1.01	13.71	1.71	12.91	13.19	2.51	2.23	12.85	13.5	2.57	1.92
GEI-MW-02D	15.55	13.99	14.12	1.56	1.43	14.45	1.1	12.68	12.87	2.87	2.68	12.55	12.74	3	2.81
GEI-MW-03S	18.58	11.18	11.12	7.4	7.46	9.43	9.15	11.01	11.03	7.57	7.55	11.1	10.98	7.48	7.6
GEI-MW-03I	17.68	16.76	17.02	0.92	0.66	16.27	1.41	15.33	15.73	2.35	1.95	15.23	15.6	2.45	2.08
GEI-MW-03D	18.56	16.67	17.13	1.89	1.43	10.16	8.4	15.68	15.9	2.88	2.66	15.55	15.75	3.01	2.81
GEI-MW-04S	9.67	4.86	4.85	4.81	4.82	5.11	4.56	5.24	5.25	4.43	4.42	5.17	5.19	4.5	4.48
GEI-MW-04I	9.27	8.09	8.36	1.18	0.91	7.9	1.37	6.89	6.84	2.38	2.43	7.84	7.35	1.43	1.92
GEI-MW-04D	9.57	7.91	8.01	1.66	1.56	7.42	2.15	6.65	7.38	2.92	2.19	7.55	6.71	2.02	2.86
GEI-MW-05S	25.68	24.22	24.2	1.46	1.48	23.54	2.14	22.79	22.77	2.89	2.91	22.72	22.67	2.96	3.01
GEI-MW-05I	26.14	24.98	24.95	1.16	1.19	24.18	1.96	23.5	23.57	2.64	2.57	23.37	23.37	2.77	2.77
GEI-MW-06S	10.07	6.39	6.4	3.68	3.67	6.65	3.42	6.76	8.81	3.31	1.26	6.34	6.28	3.73	3.79
GEI-MW-06I	10.31	9.73	10.2	0.58	0.11	9.61	0.7	NM	NM	NM	NM	NM	NM	NM	NM
GEI-MW-06D	9.94	9.65	9.85	0.29	0.09	9.25	0.69	8.25	8.52	1.69	1.42	8.07	8.34	1.87	1.6
GEI-MW-07S	10.71	9.27	12.64	1.44	-1.93	13.49	-2.78	8.98	13.72	1.73	-3.01	8.32	13.31	2.39	-2.6
GEI-MW-07I	10.52	9	9.52	1.52	1	9.05	1.47	7.89	8.51	2.63	2.01	7.8	8.32	2.72	2.2
GEI-MW-07D	10.69	9.28	9.45	1.41	1.24	8.7	1.99	8.01	8.24	2.68	2.45	7.82	8.05	2.87	2.64
GEI-MW-08S	9.27	7.98	11.39	1.29	-2.12	12.12	-2.85	7.71	12.21	1.56	-2.94	7.38	12.3	1.89	-3.03
GEI-MW-08I	9.21	9.82	10.42	-0.61	-1.21	9.89	-0.68	NM	NM	NM	NM	NM	NM	NM	NM
GEI-MW-08D	9.09	8.27	8.51	0.82	0.58	7.7	1.39	6.92	7.19	2.17	1.9	6.79	7.2	2.3	1.89
GEI-MW-09	10.9	9.32	9.27	1.58	1.63	9.65	1.25	NM	NM	NM	NM	9.24	9.16	1.66	1.74
GEI-MW-10	14.3	7.07	7.05	7.23	7.25	7.53	6.77	7.17	7.19	7.13	7.11	7.17	7.11	7.13	7.19
CGMW-11	5.48	--	--	--	--	--	--	2.89	3.6	2.59	1.88	2.91	3.52	2.57	1.96
CGMW-12	9.09	--	--	--	--	--	--	5.47	5.7	3.62	3.39	5.42	5.45	3.67	3.64
CGMW-13	27.9	--	--	--	--	--	--	14.5	14.69	13.4	13.21	14.4	14.32	13.5	13.58
CGMW-14 CH1	18.46	--	--	--	--	--	--	5.46	5.32	13	13.14	6.01	5.92	12.45	12.54
CGMW-14 CH2	18.46	--	--	--	--	--	--	7.29	7.13	11.17	11.33	7.44	7.41	11.02	11.05
CGMW-14 CH3	18.46	--	--	--	--	--	--	15.66	15.66	2.8	2.8	15.45	15.55	3.01	2.91
CGMW-14 CH4	18.46	--	--	--	--	--	--	15.97	16.13	2.49	2.33	15.77	15.75	2.69	2.71
CGMW-14 CH5	18.46	--	--	--	--	--	--	15.79	15.69	2.67	2.77	15.69	15.67	2.77	2.79
CGMW-14 CH6	18.46	--	--	--	--	--	--	15.78	15.76	2.68	2.7	15.58	15.73	2.88	2.73
CGMW-14 CH7	18.46	--	--	--	--	--	--	15.9	15.82	2.56	2.64	15.57	15.72	2.89	2.74

**Table 5  
Groundwater Depths and Elevations  
Carroll Gardens/Public Place**

Monitoring Well	Top of Casing (feet NAVD)	Round 1: June 5, 2003				Round 2: July 10, 2003		Round 3: April 4, 2005				Round 4: April 11, 2005			
		Groundwater Depth from TOC (feet)		Groundwater Elevation (feet NAVD)		Groundwater depth from TOC (feet)	Groundwater Elevation (feet NAVD)	Groundwater Depth from TOC (feet)		Groundwater Elevation (feet NAVD)		Groundwater Depth from TOC (feet)		Groundwater Elevation (feet NAVD)	
		High Tide	Low Tide	High Tide	Low Tide	Low Tide	Low Tide	High Tide	Low Tide	High Tide	Low Tide	High Tide	Low Tide	High Tide	Low Tide
CGMW-15 CH1	16.91	--	--	--	--	--	--	10.86	10.96	6.05	5.95	10.84	10.82	6.07	6.09
CGMW-15 CH2	16.91	--	--	--	--	--	--	14.56	13.03	2.35	3.88	NM	NM	NM	NM
CGMW-15 CH3	16.91	--	--	--	--	--	--	14.82	15.07	2.09	1.84	14.8	15.01	2.11	1.9
CGMW-15 CH4	16.91	--	--	--	--	--	--	14.88	14.56	2.03	2.35	14.76	14.85	2.15	2.06
CGMW-15 CH5	16.91	--	--	--	--	--	--	14.88	14.95	2.03	1.96	14.94	14.95	1.97	1.96
CGMW-15 CH6	16.91	--	--	--	--	--	--	15.47	15.4	1.44	1.51	15.38	15.4	1.53	1.51
CGMW-15 CH7	16.91	--	--	--	--	--	--	14.07	14.08	2.84	2.83	14.15	13.91	2.76	3
CGMW-16 CH1	6.64	--	--	--	--	--	--	3.52	3.51	3.12	3.13	3.72	3.64	2.92	3
CGMW-16 CH2	6.64	--	--	--	--	--	--	5.32	4.66	1.32	1.98	5.49	5.3	1.15	1.34
CGMW-16 CH3	6.64	--	--	--	--	--	--	4.22	5.42	2.42	1.22	4.31	5.45	2.33	1.19
CGMW-16 CH4	6.64	--	--	--	--	--	--	3.78	4.91	2.86	1.73	3.91	5.12	2.73	1.52
CGMW-16 CH5	6.64	--	--	--	--	--	--	6.45	3.51	0.19	3.13	4.92	4.42	1.72	2.22
CGMW-16 CH6	6.64	--	--	--	--	--	--	2.31	2.43	4.33	4.21	2.29	2.13	4.35	4.51
CGMW-16 CH7	6.64	--	--	--	--	--	--	3.76	3.9	2.88	2.74	3.5	3.5	3.14	3.14
CGMW-17 CH1	22.11	--	--	--	--	--	--	14.95	15.06	7.16	7.05	14.65	14.6	7.46	7.51
CGMW-17 CH2	22.11	--	--	--	--	--	--	14.99	15.13	7.12	6.98	14.72	14.62	7.39	7.49
CGMW-17 CH3	22.11	--	--	--	--	--	--	19.8	19.99	2.31	2.12	20.03	20.07	2.08	2.04
CGMW-17 CH4	22.11	--	--	--	--	--	--	20	19.93	2.11	2.18	19.86	19.82	2.25	2.29
CGMW-17 CH5	22.11	--	--	--	--	--	--	19.79	19.86	2.32	2.25	19.69	19.69	2.42	2.42
CGMW-17 CH6	22.11	--	--	--	--	--	--	19.89	20.01	2.22	2.1	19.81	19.79	2.3	2.32
CGMW-17 CH7	22.11	--	--	--	--	--	--	19.29	19.3	2.82	2.81	19.82	11.17	2.29	10.94
CGMW-18 CH1	14.07	--	--	--	--	--	--	8.93	8.95	5.14	5.12	8.79	8.74	5.28	5.33
CGMW-18 CH2	14.07	--	--	--	--	--	--	11.62	11.73	2.45	2.34	11.5	11.53	2.57	2.54
CGMW-18 CH3	14.07	--	--	--	--	--	--	11.64	12.11	2.43	1.96	11.69	11.84	2.38	2.23
CGMW-18 CH4	14.07	--	--	--	--	--	--	8.91	8.93	5.16	5.14	8.82	8.75	5.25	5.32
CGMW-18 CH5	14.07	--	--	--	--	--	--	11.29	11.4	2.78	2.67	11.42	11.32	2.65	2.75
CGMW-18 CH6	14.07	--	--	--	--	--	--	11.34	11.37	2.73	2.7	11.23	11.35	2.84	2.72
CGMW-18 CH7	14.07	--	--	--	--	--	--	11.29	11.42	2.78	2.65	11.22	11.27	2.85	2.8
CGMW-19 CH1	8.25	--	--	--	--	--	--	6.26	6.78	1.99	1.47	6.34	6.62	1.91	1.63
CGMW-19 CH2	8.25	--	--	--	--	--	--	6.02	7.12	2.23	1.13	6.09	7.15	2.16	1.1
CGMW-19 CH3	8.25	--	--	--	--	--	--	5.84	6.37	2.41	1.88	6.06	6.34	2.19	1.91
CGMW-19 CH4	8.25	--	--	--	--	--	--	5.59	5.61	2.66	2.64	5.69	5.68	2.56	2.57
CGMW-19 CH5	8.25	--	--	--	--	--	--	5.45	5.43	2.8	2.82	5.59	5.58	2.66	2.67
CGMW-19 CH6	8.25	--	--	--	--	--	--	4.88	4.87	3.37	3.38	5.01	5.04	3.24	3.21
CGMW-19 CH7	8.25	--	--	--	--	--	--	4.66	4.59	3.59	3.66	4.88	4.65	3.37	3.6

**Table 5  
Groundwater Depths and Elevations  
Carroll Gardens/Public Place**

Monitoring Well	Top of Casing (feet NAVD)	Round 1: June 5, 2003				Round 2: July 10, 2003		Round 3: April 4, 2005				Round 4: April 11, 2005			
		Groundwater Depth from TOC (feet)		Groundwater Elevation (feet NAVD)		Groundwater depth from TOC (feet)	Groundwater Elevation (feet NAVD)	Groundwater Depth from TOC (feet)		Groundwater Elevation (feet NAVD)		Groundwater Depth from TOC (feet)		Groundwater Elevation (feet NAVD)	
		High Tide	Low Tide	High Tide	Low Tide	Low Tide	Low Tide	High Tide	Low Tide	High Tide	Low Tide	High Tide	Low Tide	High Tide	Low Tide
CGMW-22 CH1	5.57	--	--	--	--	--	--	4.19	4.94	1.38	0.63	4	5.07	1.57	0.5
CGMW-22 CH2	5.57	--	--	--	--	--	--	3.92	4.1	1.65	1.47	4.08	4.28	1.49	1.29
CGMW-22 CH3	5.57	--	--	--	--	--	--	3.36	4.37	2.21	1.2	3.27	4.37	2.3	1.2
CGMW-22 CH4	5.57	--	--	--	--	--	--	3.51	4.12	2.06	1.45	3.39	4.1	2.18	1.47
CGMW-22 CH5	5.57	--	--	--	--	--	--	3.46	3.99	2.11	1.58	3.39	4.06	2.18	1.51
CGMW-22 CH6	5.57	--	--	--	--	--	--	3.54	3.95	2.03	1.62	3.47	3.89	2.1	1.68
CGMW-22 CH7	5.57	--	--	--	--	--	--	3.62	4.23	1.95	1.34	2.69	3.93	2.88	1.64
Canal		5.44	8.8	1.29	-2.07	9.52	-2.79	5.4	8.75	1.33	-2.02	4.86	9.6	1.87	-2.87

**Notes:**

NAVD - North American Vertical Datum

TOC - Top of Casing

\* - No measurable thickness; blebs present in bottom 8.2' of water column