

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL

In City Council

VOTE

Authorizing the City Manager to execute a Limited Access Agreement between the City of Lowell and Speedway, LLC. relative to certain locations on or about Pawtucket Street.

The City of Lowell owns the property on Pawtucket Street, Lowell, and

Speedway, LLC requests access to certain locations on or about 499 Pawtucket Street aka Sheehy Memorial Park for the purpose of installing, operating and maintaining two environmental monitoring wells in furtherance of environmental assessment and remedial activities at property located at 499 Pawtucket Street by and through his licensed site professional EnviroTrac Ltd., for a term not to exceed three (3) years; and

A Limited Access Agreement for such purpose is needed; and

The City of Lowell is willing to grant a Limited Access Agreement to its employees, agents and contractor's access onto the property for the purpose of drilling and installing two groundwater monitoring wells in furtherance of environmental assessment of groundwater quality related to the historical release of gasoline from the site under Massachusetts DEP Release Tracking Number RTN 3-34993 and remedial activities at property located at the property identified as John E. Sheehy Memorial Park, 499 Pawtucket Street, Lowell, MA, which includes without limitation landscaping between a paved walkway and Pawtucket Street across from 558 Pawtucket Street (the "Property").

BE IT VOTED BY A TWO-THIRDS VOTE OF THE CITY COUNCIL OF THE CITY OF LOWELL, as follows:

That the City Manager be and he is hereby authorized to execute a Limited Access Agreement between the City of Lowell and Speedway, LLC, its employees, agents and contractor's relative to certain locations on or about the property identified as John E. Sheehy Memorial Park, 499

Pawtucket Street, Lowell, MA 01854, which includes without limitation landscaping between a paved walkway and Pawtucket Street across from 558 Pawtucket Street (the "Property") for the purpose of drilling and installing two groundwater monitoring wells in furtherance of environmental assessment of groundwater quality related to the historical release of gasoline from the site under Massachusetts DEP Release Tracking Number RTN 3-34993 and remedial activities by and through his licensed site professional EnvirTrac, Ltd, for a term not to exceed three (3) years, all as more fully described in the form, or substantially the form, attached hereto.

v.limitedaccessagreement

LIMITED ACCESS AGREEMENT

This Limited Access Agreement (“Agreement”) is entered into this ____ day of June, 2020 by and between the CITY OF LOWELL, a Massachusetts municipal corporation, owner of the property identified as John E. Sheehy Memorial Park, 499 Pawtucket Street, Lowell, MA 01854, which includes without limitation landscaping between a paved walkway and Pawtucket Street across from 558 Pawtucket Street (the “Property”) and Speedway LLC (“Speedway”) with a principal place of business at 500 Speedway Drive in Enon, Ohio 45323 (collectively, the “Parties”).

WHEREAS, Speedway has requested access to the Property for the purpose of installing, operating and maintaining two (2) environmental monitoring wells on the Property, in landscaping between a paved walkway and Pawtucket Street across from 558 Pawtucket Street, as further described and depicted as “Proposed Boring Locations” in the correspondence from Speedway to the City of Lowell City Council dated November 27, 2019 attached hereto and incorporated by reference herein as EXHIBIT A (the “Work”); and

WHEREAS, the CITY OF LOWELL is willing to grant limited access to the Property for the purpose of the Work for a term not to exceed three (3) years from the date of this Agreement;

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the Parties hereby agree as follows:

1. The CITY OF LOWELL hereby grants to Speedway, its employees, agents, and contractors, access onto the Property for the purpose of conducting the Work.
2. No materials may be stored on the Property by Speedway unless approved in writing by the CITY OF LOWELL and are, at a minimum, determined to be non-hazardous materials.
3. To the extent that they are required, Speedway shall be responsible for obtaining all permits required from the CITY OF LOWELL for the Work. Speedway shall be solely responsible for any costs incurred for the procurement of these permits.
4. Speedway shall provide to the CITY OF LOWELL copies of all reports, tests, surveys and/or other findings on site conditions on the Property generated as a result of the Work.
5. Speedway agrees that neither it nor its employees, contractors, or agents shall, in the course of the Work permitted under this Agreement, unnecessarily obstruct, interfere with, or impede the ingress and egress of persons or vehicles to and from the Property, vehicular traffic on or around Pawtucket Street, pedestrian travel on or about the Property and/or Pawtucket Street, or otherwise unnecessarily interfere with any existing use of the Property. Speedway shall use all diligent efforts to minimize any such obstruction or inference.
6. Speedway and its contractors, while performing the Work at the Property, shall maintain at least the following insurance, with limits of liability no less than those stated below:

1. Comprehensive General Liability: Combined single limit for bodily injury and property damage of not less than \$1,000,000.00 each occurrence and \$2,000,000.00 annual aggregate.
 2. Worker's Compensation Insurance and Employer's Liability Insurance: With limits of liability of not less than those required by law.
 3. Employer's Liability Insurance with limits of not less than \$1,000,000.00.
 4. Automobile Insurance (comprehensive form) covering all vehicles with limits of liability of not less than \$1,000,000.00 combined single limit for bodily injury and property damage.
7. No work shall be performed between 7:00PM and 7:00AM, except if a bona fide emergency exists and the City of Lowell is given adequate notice where practicable prior to the emergency work.
 8. Heavy equipment, to the extent it is required, must be fenced off, stored, or otherwise secured at the end of each work day.
 9. Upon completion of the Work, Speedway shall remove the monitoring wells and return the area of the Property impacted by the Work to the City of Lowell in substantially its original condition.
 10. The City of Lowell reserves the right to revoke consent for this Agreement either for cause or without cause.
 11. Speedway and the CITY OF LOWELL acknowledge that the CITY OF LOWELL makes no representations or warranties regarding the condition or safety of its property and that entry upon the property is at the risk of Speedway, and its employees, agents, and contractors. The CITY OF LOWELL shall not be responsible for any personal injury or property damage suffered by any party or person that arises in any way out of the activities contemplated in this Agreement, except to the extent that such injury or damage is a direct result of negligence of the CITY OF LOWELL, and subject to the limits set forth in M.G.L. c. 258.
 12. Speedway agrees to defend, indemnify and hold the CITY OF LOWELL, its officers, officials, agents and employees harmless from and against any suits, claims, actions, costs, expenses, fees, liability, losses and damages that may be asserted against, imposed upon, or incurred by the CITY OF LOWELL, its officers, officials, employees and agents, as a result of, relating to, or arising from any act or omission of Speedway, or its employees, agents, and contractors that is directly associated or in connection with the grant of access as set forth herein. Speedway's indemnification of the CITY OF LOWELL under this Paragraph shall survive the expiration or early termination of this Agreement.
 13. Each of the undersigned hereby represents and warrants that it is authorized to execute this Agreement on behalf of the respective Party to the Agreement and that this Agreement, when executed by those Parties, shall become a valid and binding obligation, enforceable in accordance with its terms. John, M. Helms was delegated the authority to sign this type of document on behalf of, and to bind Speedway LLC, pursuant to a resolution that was duly adopted by written consent of the Board of Managers of the Company on July 31, 2013. The 2013 resolution authorized and empowered any Vice President of the Company to execute, in the name and on behalf of the Company and in the course of the company's business, government filings and any permit, license, registration or other authorization issued by any governmental agency or authority, and to delegate

his or her authority granted pursuant to the resolution, in writing, to any other officer, employee, agent, or advisor of the Company or any affiliate of the Company. Nelson E. Almond is a duly appointed Senior Vice President of the Company and Nelson E. Almond delegated authority to John M. Helms, the Manager of Environmental Remediation, to executed documents on behalf of Mr. Almond, pursuant to a written delegation dated October 5, 2018.

IN WITNESS WHEREOF, the Parties have executed this Agreement as a contract under seal this _____ day of June, 2020.

CITY OF LOWELL, MA

SPEEDWAY LLC

By: _____
Eileen M. Donoghue, City Manager

By: _____
John M. Helms, Manager of
Environmental Remediation

Approved as to form:

John Richard Hucksam, Jr.
Assistant City Solicitor



November 27, 2019

City of Lowell City Council
City Hall
375 Merrimack Street
Lowell, Massachusetts 01852

RE: Petition to Install Environmental Monitoring Wells
Speedway Store #2468
558 Pawtucket Street
Lowell, Massachusetts 01854
RTN 3-34993

2019 DEC -2 AM 9:57

Dear City Council:

On behalf of Speedway LLC (Speedway), EnviroTrac Ltd. (EnviroTrac) has prepared this Petition to request approval for drilling to install two (2) environmental monitoring wells in the landscaping of the sidewalk of Pawtucket Street across from the above referenced location (the Site). Based on EnviroTrac's conversations with representatives from the City of Lowell Engineering Department, City Clerk's Office, and Department of Planning and Development, a road opening permit cannot be issued without first submitting and receiving approval of this Petition.

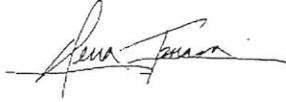
The purpose of drilling is to assess soil and groundwater quality related to the historical release of gasoline from the Site under Massachusetts Department of Environmental Protection (MassDEP) Release Tracking Number (RTN) 3-34993. Data collected will be used to document downgradient soil and groundwater conditions from the Site. The proposed locations of the monitoring wells are depicted on the attached Site Plan.

In accordance with Speedway procedures, subsurface utilities will be identified by Dig Safe and a private utility identifying company prior to drilling. The first six (6) feet of each soil boring will be advanced by a vacuum truck in order to clear any potentially unidentified utilities. Each soil boring will then be advanced to approximately 25 feet below ground surface using a hollow stem auger. Please note that the approximately six-inch diameter borehole at each location will be the only disturbance to landscaping caused by drilling activities. Each soil boring will be completed as a two-inch diameter monitoring well, constructed of polyvinyl chloride pipe (PVC). Each monitoring well will be finished to grade with a flush-mounted road box surrounded by a concrete pad. The work scope described above will be performed during regular business hours and is expected to be completed in one day. The monitoring wells will be sampled on a quarterly basis for at least two (2) years (dependent upon groundwater conditions). In

consideration of the time of year and driller availability, EnviroTrac would like to complete the above scope of work by late-December 2019.

Thank you for your consideration of this Petition. Should you have any questions, please contact the undersigned at (781) 793-0074 or at denat@envirotrac.com.

Sincerely,
EnviroTrac Ltd.



Dena Tomassi
Project Manager

Attachment



LEGEND

- MONITORING WELL
- ⊗ DESTROYED MONITORING WELL
- ⊙ SOIL BORING
- ⊕ PROPOSED SOIL BORING
- ⊖ EMERGENCY SHUT-OFF SWITCH
- ⊗ WATER GATE
- ⊙ MANHOLE
- ⊕ DRAIN MANHOLE
- STORMWATER CLEANOUT/ROOF SPOUT
- CANOPY FOOTING
- ▣ CATCH BASIN
- ⊕ GAS METER
- ⊖ ELECTRIC METER
- ⊕ ICE MACHINE
- ▭ ICE
- ▭ UNDERGROUND DETENTION BASIN
- ▭ PROPERTY LINE
- ▭ OVERHEAD ELECTRIC AND COMMUNICATION
- ▭ UNDERGROUND ELECTRIC
- ▭ UNDERGROUND COMMUNICATION
- ▭ UNDERGROUND NATURAL GAS
- ▭ UNDERGROUND WATER
- ▭ INFERRED UNDERGROUND WATER
- ▭ UNDERGROUND STORM WATER
- ▭ UNDERGROUND SANITARY SEWER

APPROXIMATE SCALE



SOURCE: SPEEDWAY LLC, "PROPOSED PLAN", DATED 12/08/2017

ALL LOCATIONS ARE APPROXIMATE. NOT FOR CONSTRUCTION PURPOSES.

FIGURE

1

DRAWN/REVISED BY: DT/DT
DRAWING DATE: 03/14/2018
REVISION DATE: 11/15/2019

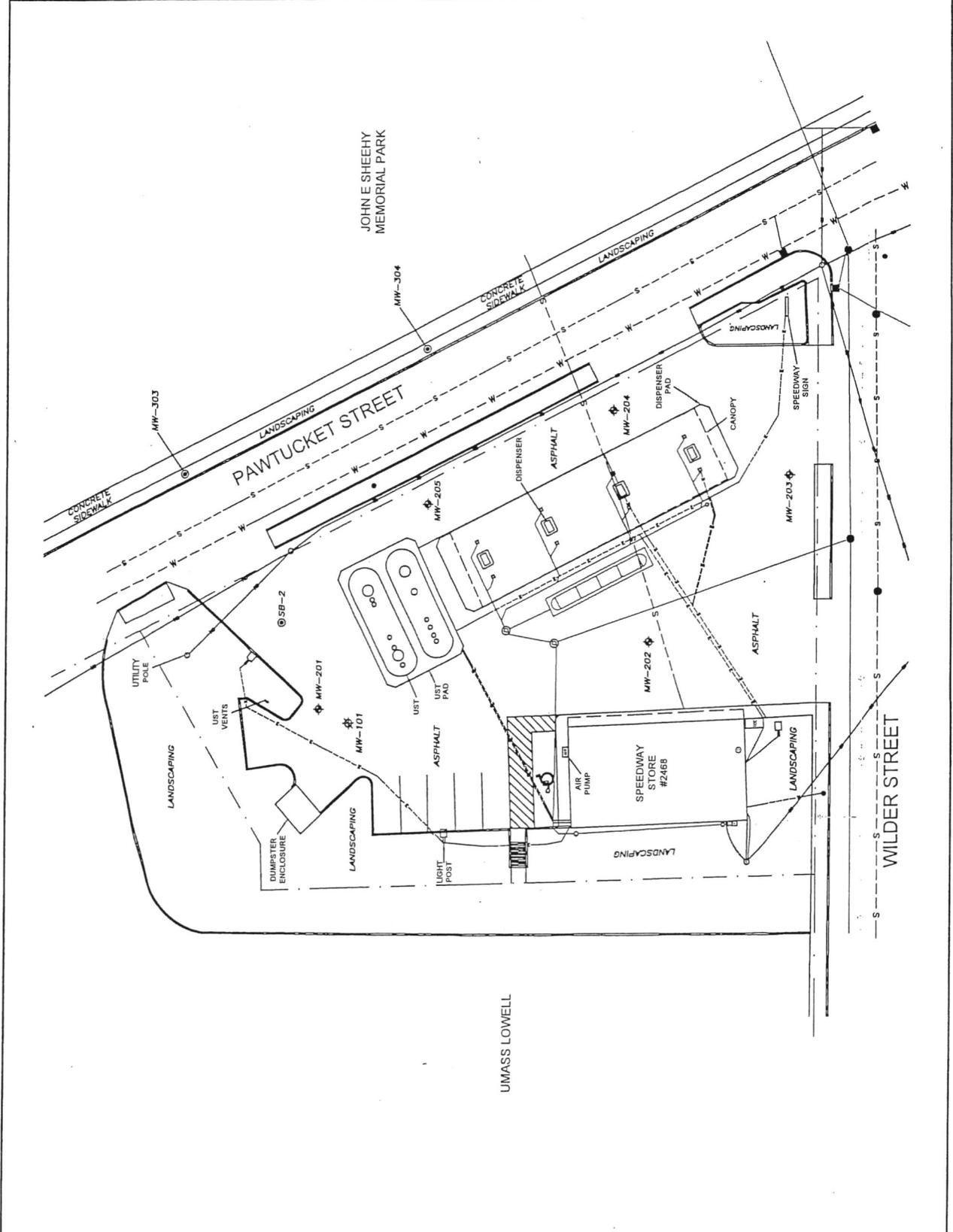
DRAWING TITLE

PROPOSED BORING LOCATIONS

PREPARED FOR

SPEEDWAY STORE #2468
558 PAWTUCKET STREET
LOWELL, MASSACHUSETTS

EnviroTrac
 2 Merchett Street, Suite 2
 Lowell, Massachusetts 01854
 PHONE: (781)753-8874 FAX: (781)793-7877





City of Lowell - Law Department

375 Merrimack Street, 3rd Floor • Lowell MA 01852-5909
Tel: 978.674.4050 • Fax: 978.453.1510 • www.lowellma.gov

Christine P. O'Connor
City Solicitor

Gary D. Gordon
John Richard Hucksam, Jr.
Adam LaGrassa
Stacie M. Moeser
Elliott J. Veloso
Assistant City Solicitors

June 4, 2020

City Manager Eileen M. Donoghue
Mayor John Leahy
Members of the City Council

Re: Limited Access Agreement for Access to Public Way –

Dear Manager Donoghue, Mayor Leahy and Members of the City Council:

On December 10, 2019, EnviroTrac Ltd., on behalf of Speedway LLC, requested permission from the City Council to temporarily install and operate two (2) environmental monitoring wells at 499 Pawtucket Street, which property is identified as John E. Sheehy Memorial Park. Speedway requires the installation of these monitoring wells as part of assessment of soil and groundwater quality related to the historical release of gasoline from 558 Pawtucket Street under Massachusetts DEP Release Tracking Number (RTN) 3-34993.

The attached limited access agreement would permit Speedway access to 499 Pawtucket Street for the installation and operation of these monitoring wells. Speedway would be responsible for all costs relative to the installation monitoring and monitoring of the wells. Upon completion of the data gathering, Speedway will also be responsible to the removal of the monitoring wells and restoration of the property.

Very truly yours,

John R. Hucksam, Jr.
Assistant City Solicitor