

COMMONWEALTH OF PENNSYLVANIA
BEFORE THE ENVIRONMENTAL HEARING BOARD

In The Matter Of:

Urban Redevelopment Authority of	:	
Pittsburgh	:	Clean Streams Law
Pittsburgh Technology Center	:	Solid Waste Management Act
City of Pittsburgh	:	Air Pollution Control Act
Allegheny County	:	

CONSENT ORDER AND AGREEMENT

This Consent Order and Agreement is entered into this 9th day of July, 1993, by and between the Commonwealth of Pennsylvania, Department of Environmental Resources ("Department"), and the Urban Redevelopment Authority of Pittsburgh ("URA").

FINDINGS

The Department has found and determined the following Findings which the URA agrees are true and correct:

A. The Department is the agency with the duty and authority to administer and enforce the Solid Waste Management Act, Act of July 7, 1980, P.L. 380, as amended, 35 P.S. §§6018.101-6018.1002 ("SWMA"); the Air Pollution Control Act, Act of January 8, 1960, P.L. 2119, as amended, 35 P.S. §§4001-4015 ("Air Act"); the Clean Streams Law, Act of June 22, 1937, P.L. 1987, as amended, 35 P.S. §§691.1-691.1001 ("Clean Streams

Law"); the Hazardous Sites Cleanup Act of October 18, 1988, P.L. 756, No. 108, 35 P.S. §§6020.101-6020.1308 ("HSCA"); Section 1917-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 17, as amended, 71 P.S. §510-17 ("Administrative Code") and the rules and regulations of the Environmental Quality Board ("rules and regulations") promulgated thereunder.

B. The URA is a redevelopment authority organized and existing under the Urban Redevelopment Law, Act of May 24, 1945, P.L. 991, as amended, 35 P.S. §§1701-1719, whose public purpose is the development of blighted property for commercial, industrial and residential purposes.

C. The Park Corporation ("Park") conveyed to the URA, by Deed dated October 28, 1983, 48.700 acres located along Second Avenue, immediately adjacent to the Monongahela River in the Fourth (4th) Ward of the City of Pittsburgh, Pennsylvania (the "Pittsburgh Technology Center Property"). The Park Deed conveying the Pittsburgh Technology Center Property to the URA is recorded in the Office of the Allegheny County Recorder of Deeds at Deed Book Volume 6759, Page 511, and is further identified at Allegheny County Deed Registry Office as Block 11-R and part of Lot 4-1. A map showing the location of the Pittsburgh Technology Center is attached hereto as Exhibit "A."

D. Park purchased the Pittsburgh Technology Center Property from the Jones and Laughlin Corporation (now the LTV Corporation) in 1981. During its occupancy of the Property Park demolished structures and removed equipment owned and operated by the Jones and Laughlin Corporation.

E. The Jones and Laughlin Corporation operated a steel manufacturing facility on the Pittsburgh Technology Center Property.

F. The purpose of the URA's purchase of the Pittsburgh Technology Center Property was to develop a high tech industrial park for the City of Pittsburgh. A parcel plan of the Pittsburgh Technology Center Property dividing it into numbered parcels relating to that proposed development (the "PTC Parcel Plan") is attached hereto as Exhibit B.

G. The URA has accepted offers to purchase certain parcels within the Pittsburgh Technology Property from Carnegie Mellon University ("CMU") and the Regional Industrial Development Corporation ("RIDC")/Union Switch & Signal ("USS"). CMU proposes to purchase and develop Parcel 2 (1-West) and RIDC/USS proposes to purchase and develop Parcel 4 (1-West) for purposes of the construction of the individual facilities for their occupation. Construction of the facility for the University of Pittsburgh ("Pitt") has already occurred on Parcel 2 (1-East), a parcel which had been previously conveyed by the URA to the Pennsylvania Department of General Services. The URA also anticipates transferring additional parcels to other parties for similar development purposes. Parcel 2 (1-East) and the parcels intended for transfer and development by a party or parties other than the URA shall be hereinafter collectively referred to as the Development Parcels (the "Development Parcels"). The URA intends to retain title to Parcels 2 (2-East), 3 (1-East), 4 (1-East), and 7 (1-West) as well as to the open space parcels of the Property (the "URA Parcels" and the "open space parcels"). The boundary lines for the Development Parcels, the URA Parcels, and the open space parcels of the Pittsburgh Technology Center Property are shown on

Exhibit B. The URA intends to construct a parking garage on Parcel 7 (1-West) in conjunction with the RIDC/USS development of Parcel 4 (1-West).

H. Subsequent to its purchase of the Pittsburgh Technology Center Property, the URA performed, or caused to be performed, an environmental assessment ("environmental review") of the Property which included soil and ground-water testing. The findings of the environmental review are set forth in a series of technical reports, each of which is identified in the following list according to the name of the consultant who prepared the report, the date of the report and the title of the report:

- (i) Wilbur Smith Associates - August 1987 - Environmental Review Steps I and II.**
- (ii) ICF SRW Associates - June 13, 1989 - Report of Findings Additional Investigation.**
- (iii) Civil & Environmental Consultants - December 20, 1989 - Report of Findings Additional Investigation.**
- (iv) Civil & Environmental Consultants - April 9, 1990 - Report of Findings Contamination Assessment.**
- (v) Civil & Environmental Consultants - June 27, 1990 - Assessment of VOC Contamination.**
- (vi) Civil & Environmental Consultants - December 3, 1990 - Report on Quarterly Monitoring for 1990.**
- (vii) Remediation Technologies, Inc. - February, 1992 - Preconstruction Environmental Assessment for a Proposed Building Site at the Pittsburgh Technology Center.**
- (viii) Civil and Environmental Consultants - March 18, 1992 - Report on Quarterly Monitoring for 1991.**

I. As part of the environmental review, the URA, through its environmental consultants, took soil borings and installed ground-water monitoring wells at locations identified on Exhibit B.

J. The environmental review sets forth the analytical results of sampling at the soil borings and the ground-water monitoring wells.

1. The analytical results show the presence of stable, non-toxic cyanide compounds in sub-strata materials located under Parcels 3 (1-East) and 4 (1-East) of the Pittsburgh Technology Center Property as shown on the PTC Parcel Plan, beneath an unexcavated concrete floor slab of one of the former Jones and Laughlin steel mill buildings. The URA asserts that the areal extent of the cyanide-contaminated soil is confined to portions of Parcels 3 (1-East) and 4 (1-East) as identified on Exhibit B.

2. The analytical results show the presence of total cyanide in the ground water in concentrations as high as 18 milligrams per liter in the vicinity of the cyanide-contaminated soil on Parcels 3 (1-East) and 4 (1-East). The ground water at the site flows in the direction of the Monongahela River and serves as a source of recharge to the River.

K. In addition to the environmental contamination described in Paragraph J hereof, the analytical results of sampling done pursuant to the environmental review also show the presence of volatile organic compounds ("VOCs") in the soil and ground water on Parcel 7 (1-West) in the vicinity of monitoring wells MW-8, MW-16 and MW-19.

L. The environmental review also indicates that the ground water beneath the Pittsburgh Technology Center Property is unacceptable as a potable water source and all uses of the ground water at the Pittsburgh Technology Center Property should be prohibited.

M. The URA has constructed a storm water system to serve the Pittsburgh Technology Center Property that is designed in a manner that ensures that contaminated ground water will not enter into or be transported by the system, and that the storm waters transported by the system will not infiltrate into the ground water.

N. The URA represents that the environmental review constitutes a full and accurate assessment and disclosure of the nature and extent of the environmental contamination present in the ground water and soils at the Pittsburgh Technology Center Property.

O. The Department agrees that the URA may proceed with plans for development of the Pittsburgh Technology Center Property as an industrial park provided that the URA performs certain remediation and monitoring activities at the URA Parcels as provided herein, observes restrictions on the use of the ground water beneath the Property, and amends the property description sections of all relevant deeds to the Property. Said activities, restrictions and the manner in which the deed(s) should be amended are described in detail in the order portion of this Consent Order and Agreement.

P. CMU and RIDC/USS wish to consummate their respective negotiations with the URA for the transfer and development of some of the Development Parcels free of any

present obligation to perform any response, removal, remedial and/or monitoring activities at the Pittsburgh Technology Center Property.

The parties desire to resolve the foregoing matters without resorting to litigation.

ORDER

After full and complete negotiation of all matters set forth in this Consent Order and Agreement and upon mutual exchange of covenants contained herein, the parties intending to be legally bound, it is hereby ORDERED by the Department and AGREED to by the URA as follows:

1. This Consent Order and Agreement is an Order of the Department authorized and issued pursuant to Sections 5, 316 and 402 of the Clean Streams Law, 35 P.S. §§691.5, 691.316 and 691.402; Section 602 of the Solid Waste Management Act, 35 P.S. §6018.602; Section 4 of the Air Pollution Control Act, 35 P.S. §4004, and Section 1917-A of the Administrative Code, supra. The failure of the URA to comply with any term or condition of this Consent Order and Agreement shall subject the URA to all penalties and remedies provided by those statutes for failing to comply with an order of the Department.

2. a. Within thirty (30) days of the date of this Consent Order and Agreement, the URA shall submit for Department review and approval a ground-water monitoring plan (the "Ground-Water Monitoring Plan") for sampling the ground water beneath the URA Parcels. At a minimum, the Ground-Water Monitoring Plan shall provide the following components:

(i) a list of constituents including free and disassociable cyanide, cadmium, and barium for Parcels 3 (1-East), 4 (1-East), and 2 (2-East); and the Target Compound List ("TCL") for VOCs for Parcel 7 (1-West). Attached hereto as Appendix A is a list of the TCL VOCs;

(ii) proposed locations for ground-water monitoring wells (either new or existing) at each of the areas of contamination identified in Paragraphs J and K hereof, such that there are sufficient wells to determine the extent, if any, of migration beyond the boundaries of the URA Parcels of any constituent identified in the Ground-Water Monitoring Plan;

(iii) a quality assurance, quality control ("QA/QA") program which describes sample collection, preservation, custody, shipment and analysis procedures. The QA/QC program shall also identify the independent EPA-certified laboratory the URA intends to use;

(iv) testing methods reflecting the most stringent PQLs set forth in Appendix IX, 40 C.F.R. Part 264; and

(v) a schedule for sampling the ground-water monitoring wells on a quarterly basis and for submitting the results to the Department in both a hard copy format and a computer format acceptable to both parties. Each time results are submitted to the Department, they shall be reported cumulatively.

b. The Department will approve or disapprove the Ground-Water Monitoring Plan in writing. If the Plan is disapproved by the Department, the URA shall

modify the Plan to respond to the Department's comments and submit the revised Plan to the Department for written approval within fourteen (14) days, unless the Department's disapproval notice authorizes a longer response time. The Department will approve and/or modify the revised Plan.

c. Upon receiving written notification of the Department's approval and/or modification of the Ground-Water Monitoring Plan, the URA shall implement the Plan according to the approved schedule.

3. a. If at any time any ground-water monitoring results submitted in accordance with the approved Ground-Water Monitoring Plan demonstrate migration of any contaminant beyond the boundaries of the URA Parcels, within sixty (60) days of submitting said ground-water monitoring results, the URA shall submit a written plan for Department review and approval, which plan addresses the prevention of any such migration outside the boundaries of the URA Parcels (the "Migration Prevention Plan").

b. The Department will approve or disapprove the Migration Prevention Plan in writing. If the Plan is disapproved by the Department, the Department will set forth in writing its rationale for disapproval and proposed modifications. The URA shall submit a revised Migration Prevention Plan within fourteen (14) days of receipt of the Department's disapproval letter, unless the Department authorizes a longer response time. If the Department disapproves the URA's revised Migration Prevention Plan, the parties shall meet to define and attempt to resolve any outstanding differences regarding the revised Plan. At the end of the meeting, if there remain unresolved differences the parties shall jointly set out

in writing said differences (the "joint dispute statement"). Thereafter, the Department shall issue a written final order, constituting an appealable action, with a copy of the joint dispute statement attached to the order. The order will direct the URA to implement the revised Migration Prevention Plan as modified by the Department, stating what portion or portions of the Plan remain in dispute with specific references to the attached joint dispute statement.

c. In the event the URA appeals from the Department's final written order, the URA shall have the burden of proof to demonstrate that the Department's order was unreasonable based on a preponderance of the evidence.

d. In any appeal, the parties shall have sixty (60) days to conduct expedited discovery. The period of discovery shall commence seven (7) days after the URA's Notice of Appeal is received by the Southwestern Region, Office of Chief Counsel. The URA shall file its Pre-Hearing Memorandum within fifteen (15) days after the close of discovery. The Department shall file its Pre-Hearing Memorandum within fifteen (15) days of its receipt of the URA's Pre-Hearing Memorandum. Nothing contained herein shall preclude the parties from extending the foregoing schedule by mutual agreement.

4. a. On or before July 1, 1996, the URA shall submit for Department review and approval a written report (the "Report") that includes the following components:

(i) summary and analysis of the ground-water conditions beneath the URA Parcels based on all prior ground-water monitoring data submitted to the Department;

(ii) summary and analysis of any prior migration of contaminants beyond the boundaries of the URA Parcels and any corresponding actions taken by the URA to cease and prevent said migration of contaminants; and

(iii) feasibility of taking remedial measures to restore the contaminated ground water beneath the URA Parcels, including the examination of feasibility of remediation to background quality;

(iv) plan to perform proposed remedial measures; and

(v) schedule for implementing proposed remedial measures.

b. The Department will approve or disapprove any proposed remedial plan and schedule set forth in the Report (the "Remediation Plan and Schedule") in writing. If the Plan and Schedule are disapproved by the Department, the Department will set forth in writing its rationale for disapproval and proposed modifications. The URA shall submit a revised Remediation Plan and Schedule within fourteen (14) days of receipt of the Department's disapproval letter, unless the Department authorizes a longer response time. If the Department disapproves the URA's revised Plan and Schedule, the parties shall meet to define and attempt to resolve any outstanding differences regarding the revised Plan and Schedule. At the end of the meeting, if there remain unresolved differences the parties shall jointly set out in writing said differences (the "joint dispute statement"). Thereafter, the Department shall issue a written final order, constituting an appealable action, with a copy of the joint dispute statement attached to the order. The order will direct the URA to implement the revised Remediation Plan and Schedule as modified by the Department stating

what portion or portions of the Plan and Schedule remain in dispute with specific references to the attached joint dispute statement.

c. In the event the URA appeals from the Department's final written order, the URA shall have the burden of proof to demonstrate that the Department's order was unreasonable based on a preponderance of the evidence.

d. In any appeal, the parties shall have sixty (60) days to conduct expedited discovery. The period of discovery shall commence seven (7) days after the URA's Notice of Appeal is received by the Southwestern Region, Office of Chief Counsel. The URA shall file its Pre-Hearing Memorandum within fifteen (15) days after the close of discovery. The Department shall file its Pre-Hearing Memorandum within fifteen (15) days of its receipt of the URA's Pre-Hearing Memorandum. Nothing contained herein shall preclude the parties from extending the foregoing schedule by mutual agreement.

5. The URA shall not use the ground water for any purpose during the URA's ownership of any portion or portions of the Pittsburgh Technology Center Property. The URA shall also not allow the use of any devices such as heat pumps or sump pumps, the use of which could result in a discharge, by point source or otherwise, of the contaminated ground water or vapors associated therewith, unless specifically authorized by a permit from the Department.

6. In the event the URA desires to perform soil movement or disturbance activities at the URA Parcels other than ordinary surface grading and landscape improvements, prior to performing said activities the URA shall prepare, submit to the

Department and implement a Health and Safety Plan (the "Health and Safety Plan") for protecting construction workers and all persons employed and/or present at the Pittsburgh Technology Center Property from any contaminants that could be encountered in the course of onsite pre-construction and construction activities. Said Plan shall conform to the applicable requirements of 29 C.F.R. Part 1910, 40 C.F.R. Part 311, and 25 Pa. Code Chapters 123.1, 123.2 and 131.

Nothing in this paragraph constitutes authorization or permission to move any soils off the Pittsburgh Technology Center Property if such activity would otherwise require the Department's permission.

7. a. Within thirty (30) days of the date of this Consent Order and Agreement, the URA shall draft property descriptions for inclusion in any deeds prepared in the event the URA ever conveys any of the URA Parcels. The URA shall set forth in the property description sections of the deeds the following: (i) the extent, nature, and location of the contaminated soil, and (ii) the extent, nature, and location of the contaminated ground water. The property description sections shall also contain a statement that the ground water contamination beneath the URA Parcels renders the ground water beneath the entire Pittsburgh Technology Center Property unfit for any and all purposes, in the absence of further assessment and treatment and written Department approval or authorization, including but not limited to the use of devices such as heat pumps and sump pumps or other such devices the use of which could result in a discharge, by point source or otherwise, of the contaminated ground water or vapors associated therewith.

b. Within thirty (30) days of the date of this Consent Order and Agreement, the URA shall draft property descriptions for inclusion in any deeds prepared for conveyance of the Development Parcels. The URA shall set forth in the property descriptions statements describing the polluted condition of the ground water and the design and construction of the storm water sewer system in the detail set forth in Paragraphs M and 7.a. of this Consent Order and Agreement.

c. Within thirty (30) days of the date of this Consent Order and Agreement, the URA shall amend the property description section of the deed prepared for the conveyance of Parcel 2 (1-East) to the Department of General Services to reflect the statement describing the polluted condition of the ground water and the design and construction of the storm water sewer system in the detail set forth in Paragraph 7.a. of this Consent Order and Agreement.

The property description sections shall also state that the URA has constructed a storm water sewer system to serve the Pittsburgh Technology Center Property which is designed in a manner that will ensure that contaminated ground water will not enter into or be transported by the system, and that the surface and waste waters transported by the system will not infiltrate into the ground water.

8. Within thirty (30) days of the date of this Consent Order and Agreement, the URA shall either submit to the Department in a form acceptable to the Department.

(i) a bond in the amount of One Million Dollars (\$1,000,000.0) (the "bond"); or

(ii) a signed copy of the Guaranty and Suretyship Agreement attached hereto as Appendix B (the "Guaranty and Suretyship Agreement"). The bond or the Guaranty and Suretyship Agreement shall guarantee that the URA will conduct all activities required and authorized by this Consent Order and Agreement, in accordance with the terms and conditions of this Consent Order and Agreement, and in accordance with all requirements of the SWMA, the Clean Streams Law, the Air Act, and the rules and regulations of the Environmental Quality Board promulgated thereunder, according to the time periods referenced in the various paragraphs of this Consent Order and Agreement.

9. Upon approval by the Department of the plans described in Paragraphs 2, 3 and 4 of this Consent Order and Agreement, the plans shall be incorporated into this Consent Order and Agreement as if set fully herein as further obligations of this Consent Order and Agreement.

10. The Department believes that the environmental review supports the conclusion that there are no pollutional conditions with respect to the Development Parcels which require the imposition of response, removal, remedial and/or monitoring obligations. Therefore, there is no basis for the Department to require, and the Department will not require, anyone to perform any response, removal, remedial and/or monitoring activities with respect to the Development Parcels based on the environmental review. However, if the Department discovers any unknown, undisclosed or changed facts or conditions, or if unforeseen or changed circumstances develop at the Pittsburgh Technology Center Property, the Department may require the performance of additional response, removal, remedial

and/or monitoring activities at a portion or portions of the Property to the extent that such enforcement action does not represent any abuse of discretion by the Department.

11. **Existing Obligations Unaffected.** Nothing set forth in this Consent Order and Agreement is intended, nor shall be construed, to relieve or limit the URA's obligation to comply with any existing or subsequent statute, regulation, permit or order. In addition, nothing set forth in this Consent Order and Agreement is intended, nor shall be construed, to authorize any violation of any statute, regulation, order, or permit issued or administered by the Department.

12. **Reservation of Rights.** The Department specifically reserves all rights to enforce this Consent Order and Agreement and to institute equitable, administrative, civil and criminal actions, and actions to recover civil and criminal penalties and fines; for any past, present or future violation of any statute, regulation, permit or order, or for any pollution or potential pollution to the air, land or waters of the Commonwealth. These rights are cumulative and the exercise of one right does not preclude the exercise of any other.

13. **Remedies for Breach.** The URA's failure to comply with any provision of this Consent Order and Agreement shall be deemed a material breach, and in the event of any such breach, the Department may, in addition to the remedies prescribed herein, institute any equitable, administrative, civil or criminal action, including an action to enforce this Consent Order and Agreement and an action to obtain any civil penalties. These remedies are cumulative and the exercise of one does not preclude the exercise of any other. The failure of the Department to pursue any remedy shall not be deemed to be a waiver of that remedy.

14. Liability of Operator. The URA shall inform all persons necessary for the implementation of term and condition of this Consent Order and Agreement of the terms and conditions of this Consent Order and Agreement. The URA shall be liable for any violations of the Consent Order and Agreement, including those caused by, contributed to, or allowed by its directors, officers, agents, managers, servants and privies and any persons, contractors and consultants acting under or for the URA. Except as provided in Paragraph 15.b (Transfer of Site), the URA remains liable for any violation of this Consent Order and Agreement caused, contributed to or allowed by its successors and assigns.

15. Transfer of Site.

a. The parties expressly intend that the duties and obligations under this Consent Order and Agreement shall not be modified, diminished, terminated or otherwise altered by the transfer of any legal or equitable interest in the Pittsburgh Technology Center Property, or any part thereof. Within thirty (30) days of the date of this Consent Order and Agreement, the URA shall serve a copy of this Consent Order and Agreement upon the University of Pittsburgh, Carnegie Mellon University and RIDC/Union Switch & Signal. Should the URA intend to transfer any legal or equitable interest in the Pittsburgh Technology Center Property, or any part thereof, to any other prospective transferee, the URA shall serve a copy of this Consent Order and Agreement upon said transferee at least thirty (30) days prior to the contemplated transfer and shall simultaneously inform the Southwest Regional Office of the Department of such intent.

b. Even if the Department has signed a Consent Order and Agreement, Consent Decree, or a Consent Order and Adjudication, in which the transferee of an interest in the Pittsburgh Technology Center Property agrees to comply with the terms and conditions of this Consent Order and Agreement, the URA's duties and obligations under this Consent Order and Agreement are not modified, diminished, terminated or otherwise altered. Where the Department has signed a Consent Order and Agreement, a Consent Decree, or a Consent Order and Adjudication in which a transferee of an interest in the Pittsburgh Technology Center Property agrees to comply with the terms and conditions of this Consent Order and Agreement, the URA may request, in writing, the Department to modify or terminate URA's duties and obligations under this Consent Order and Agreement. The Department's decision to modify or terminate URA's duties and obligations under this Consent Order and Agreement shall be in the sole discretion of the Department.

16. Correspondence with Department. All correspondence with the Department concerning this Consent Order and Agreement shall be addressed to:

Regional Manager
Environmental Cleanup Program
400 Waterfront Drive
Pittsburgh, PA 15222-4745

17. Correspondence with the URA. All correspondence with the URA concerning this Consent Order and Agreement shall be addressed to:

Executive Director
Urban Redevelopment Authority of Pittsburgh
John P. Robin Civic Building
Twelfth Floor, 200 Ross Building
Pittsburgh, PA 15219

with a copy also sent to the General Counsel at the same address. In addition, the URA agrees that service of any notice or any legal process for any purpose under this Consent Order and Agreement, including its enforcement, may be made by mailing a copy by first class mail to its General Counsel or to the above address.

18. Force Majeure.

a. In the event that the URA is prevented from complying in a timely manner with any time limit imposed in this Consent Order and Agreement solely because of a strike, fire, flood, act of God, or other circumstances entirely beyond the URA's control and which the URA, by the exercise of all reasonable diligence, is unable to prevent, or mitigate then the URA may petition the Department for an extension of time. An increase in the cost of performing the obligations set forth in this Consent Order and Agreement shall not constitute circumstances beyond the URA's control. The URA expressly agrees that its economic inability to comply with any of the obligations of this Consent Order and Agreement shall not be grounds for any extension of time otherwise available under this paragraph.

b. The URA shall only be entitled to the benefits of this paragraph if it notifies the Department within five (5) days by telephone and within ten (10) days in writing of the date it becomes aware or reasonably should have become aware of the event impeding performance. The written submission shall include all related documentation, as well as a notarized affidavit from a responsible corporate official specifying the reasons for the delay, the expected duration of the delay, and the efforts which have been made and are being made by the URA's failure to comply with the requirements of this paragraph specifically and in a timely fashion shall render this paragraph null and of no effect as to the particular incident involved.

c. The Department will decide whether to grant all or part of the extension requested on the basis of all documentation submitted by the URA and other information available to the Department. Only a letter which has been signed by the Department and its counsel will constitute an extension under this paragraph.

d. The URA shall have the burden of proof as to the justification for an extension and the length of such extension pursuant to this paragraph, both to the Department and in the event that compliance with the terms and conditions of this Consent Order and Agreement becomes an issue in any subsequent litigation. Such burden of proof shall be by clear and convincing evidence. The total of all extensions under this paragraph, individually or in addition to previous extensions, shall in no event exceed one hundred twenty (120) days.

19. **Severability.** The paragraphs of this Consent Order and Agreement shall be severable and should any part hereof be declared invalid or unenforceable, the remainder shall continue in full force and effect between the parties.

20. **Entire Agreement.** This Consent Order and Agreement shall constitute the entire integrated agreement of the parties. No prior or contemporaneous communications or prior drafts shall be relevant or admissible for purposes of determining the meaning or extent of any provisions herein in any litigation or any other proceeding.

21. **Modifications.** Except as provided in Paragraph 18.c (Force Majeure), no changes, additions, modifications, or amendments of this Consent Order and Agreement shall be effective unless they are set out in writing and signed by the parties hereto.

22. **Attorney Fees.** The parties agree to bear their respective attorney fees, expenses and other costs in the prosecution or defense of this matter or any related matters, arising prior to execution of this Consent Order and Agreement.

23. **Decisions under Consent Order.** With the exception of the decisions described in Paragraphs 3 and 4 hereof, any decision which the Department makes under the provisions of this Consent Order and Agreement shall not be deemed to be a final action of the Department, and shall not be appealable to the Environmental Hearing Board or to any court. Any objection which the URA may have to the decision will be preserved until the Department enforces this Consent Order and Agreement. At no time, however, may the URA challenge the content or validity of this Consent Order and Agreement, or challenge the Findings agreed to in this Consent Order and Agreement.

24. **Titles.** A title used at the beginning of any paragraph of this Consent Order and Agreement is provided solely for the purpose of identification and shall not be used to interpret that paragraph.

25. **Hazardous Sites Cleanup Act.** The URA agrees that failure to comply with any provision of this Consent Order and Agreement constitutes a failure to comply with an "enforcement action" as provided in Section 1301 of the Hazardous Sites Cleanup Act, the Act of October 18, 1988, P.L. 657, No. 1988-108, 35 P.S. §6020.1301.

26. **Resolution.** Attached hereto as Appendix C is a resolution of the Urban Redevelopment Authority of Pittsburgh authorizing its signatories below to enter into this Consent Order and Agreement on its behalf.

IN WITNESS WHEREOF, the parties hereto have caused this Consent Order and Agreement to be executed by their duly authorized representatives. The undersigned representatives of the URA certify under penalty of law, as provided by 18 Pa.C.S. §4904, that they are authorized to execute this Consent Order and Agreement on behalf of the URA; that the URA consents to the entry of this Consent Order and Agreement and the foregoing Findings as an ORDER of the Department; and that the URA hereby knowingly waives its right to appeal this Consent Order and Agreement and the foregoing Findings, which rights may be available under Section 4 of the Environmental Hearing Board Act, the Act of July 13, 1988, P.L. 530, No. 1988-94, 35 P.S. §7514; the Administrative Agency Law, 2 Pa.C.S. §103(a); and Chapters 5A and 7A, or any other provision of law.

**FOR THE URBAN
REDEVELOPMENT AUTHORITY:**



**Muligetta Birru
Executive Director**

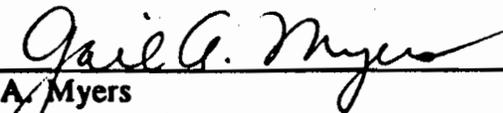
**FOR THE COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF ENVIRONMENTAL RESOURCES**



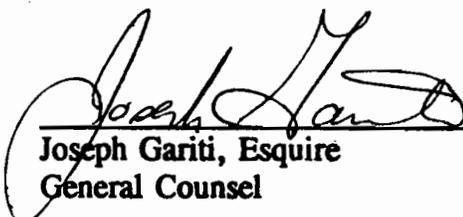
**John J. Matvija
Regional Manager
Environmental Cleanup Program
Southwest Region**



**Kathleen M. Tkachik
Assistant Secretary**



**Gail A. Myers
Assistant Counsel**



**Joseph Gariti, Esquire
General Counsel**

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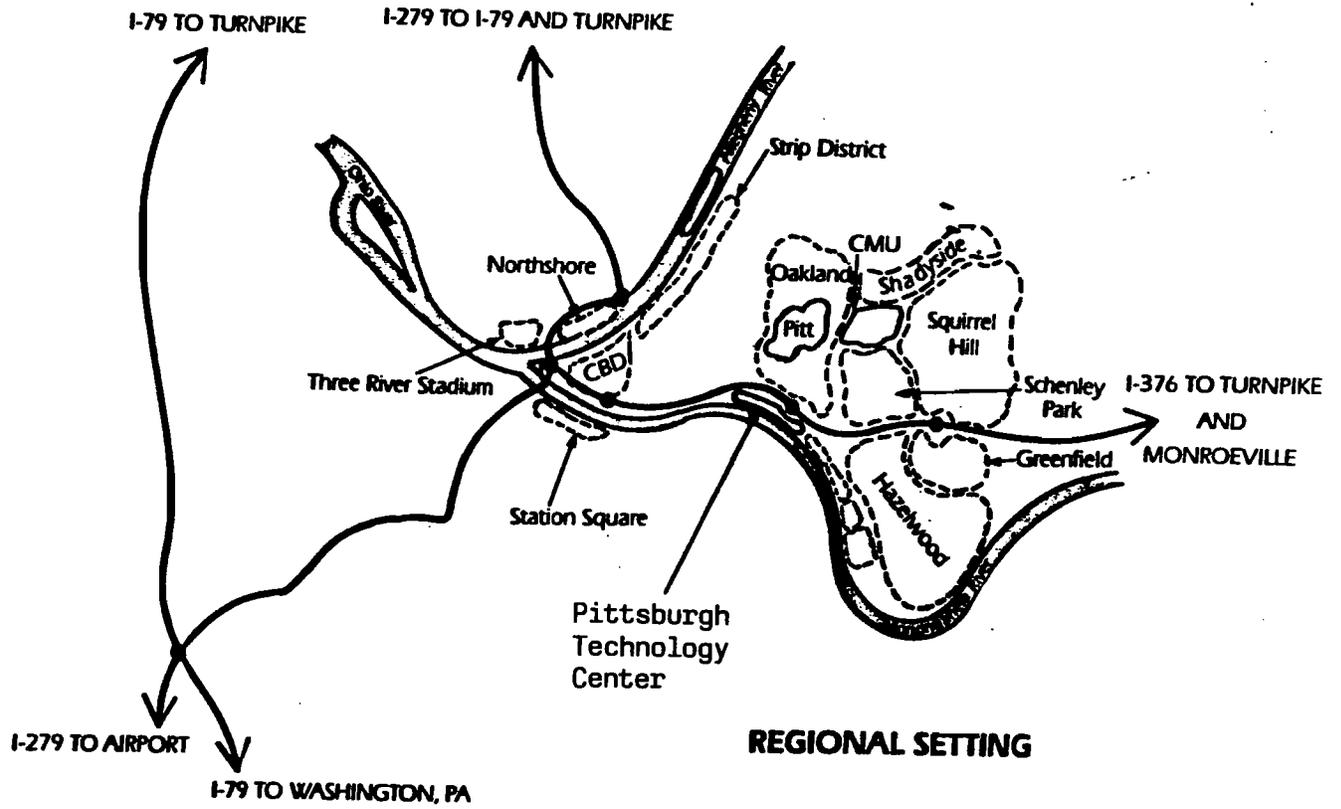


Exhibit "A"
Location Map

ETC

IX. TARGET COMPOUND LIST REQUIRED UNDER THE
EPA CONTRACT LAB PROGRAM

The EPA Contract Lab Program (CLP) has developed a list referred to as the Target Compound List (TCL).

The TCL was modified from the Hazardous Substances Lists (HSL) which was used in previous contracts. State programs—as well as Superfund Site Programs are requiring the testing of these compounds. The contract reference numbers (IFB Solicitation No.) are as follows:

Organic Compounds - WA87K236, WA-87K237, WA-87K238
Inorganic Compounds - WA87-K025, WA87-K026, WA87-K027

The following list is based upon the latest revisions by EPA completed July 1987. Consent Orders may include a slightly different list based upon previous EPA contract requirements. Refer to footnotes for variances from this list, as required by the 1985 Contract.

TARGET COMPOUND LIST FOR CLP

<u>Volatile Compounds</u>		<u>Contract Required Quantitation Limits*</u>	
		<u>Water ug/l</u>	<u>Low Soil/ Sediment^a ug/kg</u>
74-87-3	Chloromethane	10	10
74-83-9	Bromomethane	10	10
75-01-4	Vinyl Chloride	10	10
75-00-3	Chloroethane	10	10
75-09-2	Methylene Chloride	5	5
67-64-1	Acetone	10	10
75-15-0	Carbon Disulfide	5	5
75-35-4	1,1-Dichloroethene	5	5
75-34-3	1,1-Dichloroethane	5	5
540-59-0	1,2-Dichloroethene (total)	5	5
67-66-3	Chloroform	5	5
107-06-2	1,2-Dichloroethane	5	5
78-93-3	2-Butanone	10	10
71-55-6	1,1,1-Trichloroethane	5	5
56-23-5	Carbon Tetrachloride	5	5
108-05-4	Vinyl Acetate	10	10
75-27-4	Bromodichloromethane	5	5
79-34-5	1,1,2,2-Tetrachloroethane	5	5
78-87-5	1,2-Dichloropropane	5	5
10061-02-6	trans-1,3-Dichloropropene	5	5
79-01-6	Trichloroethene	5	5
124-48-1	Dibromochloromethane	5	5
79-00-5	1,1,2-Trichloroethane	5	5
71-43-2	Benzene	5	5
10061-01-5	cis-1,3-Dichloropropene	5	5
75-25-2	Bromoform	5	5
108-10-1	4-Methyl-2-Pentanone	10	10
591-78-6	2-Hexanone	10	10
127-18-4	Tetrachloroethene	5	5
108-88-3	Toluene	5	5
108-90-7	Chlorobenzene	5	5
100-41-4	Ethylbenzene	5	5

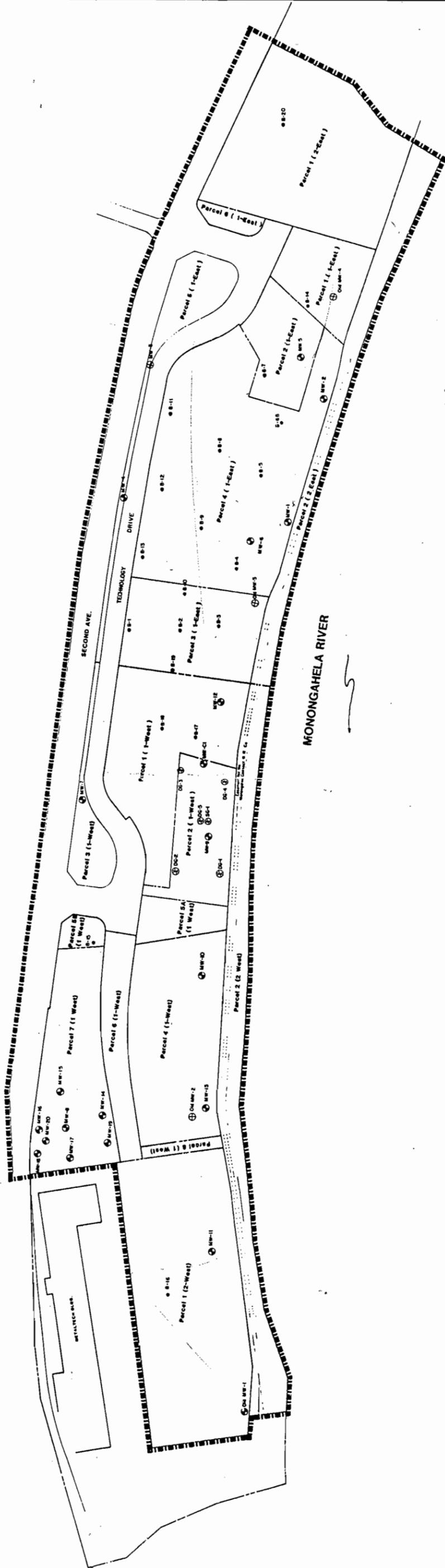
EIC

100-42-5	Styrene	5	5
1330-20-7	Xylene (total)	5	5

- a. Medium Water Contract Required Quantitation Limits (CRQL) for Volatile TCL Compounds are 125 times the individual Low Soil/Sediment CRQL.
- Specific quantitation limits are highly matrix dependent. The quantitation limits listed herein are provided for guidance and may not always be achievable.

Quantitation limits listed for soil/sediment are based on wet weight. The quantitation limits calculated by the laboratory for soil/sediment, calculated on dry weight basis as required by the contract, will be higher.

NOTE: The 1985 Contract List also included: CAS #110-75-8 2-Chloroethyl Vinyl Ether, 10 ug/l and 10 ug/kg. 1,2-Dichloroethane (total) has been substituted for trans-1,2 Dichloroethene (CAS #156-60-5), since both the cis and trans isomers coelute under these analytical conditions.



- OPEN SPACE PARCELS :**
- 2 (2-WEST)
 - 8 (1-WEST)
 - 5A (1-WEST)
 - 5B (1-WEST)
 - 3 (1-WEST)
 - 5 (1-EAST)
 - 6 (1-EAST)
 - 1 (1-EAST)
- LEGEND**
- ⊕ EXISTING MONITORING WELL
 - ⊕ MONITORING WELL BURIED DURING BACKFILLING OPERATIONS
 - ⊕ TEST BORINGS
- Parcel 5 (1-West) DESIGNATES PARCEL 5 OF SUBDISTRICT 1-WEST
 MINIMUM BOUNDARY OF PTC PROJECT SITE
 ——— PARCEL BOUNDARIES

NOTE:
Locations Of Borings And Wells Are Approximate

URBAN REDEVELOPMENT AUTHORITY OF PITTSBURGH 200 ROSS ST.
PITTSBURGH TECHNOLOGY CENTER CONSENT ORDER AND AGREEMENT EXHIBIT B
Parcel Plan And Locations Of Monitoring Wells and Soil Borings
SCALE 1"=100'
DATE: 6/83 DWN. BY: C.E.G.Z.

GUARANTY AND SURETYSHIP AGREEMENT

THIS AGREEMENT ("Guaranty and Suretyship Agreement" or "Agreement") is made this 23rd day of July, 1993, by and between the PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES, an agency of the Commonwealth of Pennsylvania ("DER"), and the URBAN REDEVELOPMENT AUTHORITY OF PITTSBURGH, a redevelopment authority ("Guarantor"), with its principal place of business at 200 Ross Street, Pittsburgh, Pennsylvania 15219-2069.

WHEREAS, the Guarantor, on July 9, 1993, entered into a Consent Order and Agreement ("COA"), which is incorporated herein by reference, for the purpose of establishing the Guarantor's obligations relating to its ownership of and activities conducted on the Pittsburgh Technology Center Project, City of Pittsburgh, Allegheny County; and

WHEREAS, the COA requires the Guarantor to faithfully perform all of its obligations set forth in the COA and to comply with all relevant provisions of the Solid Waste Management Act, Act of July 7, 1980, P.L. 380, as amended, 35 P.S. Sections 6018.101-6018.1002 ("SWMA"); the Air Pollution Control Act, Act of January 8, 1960, P.L. 2119, as amended, 35 P.S. §§4001-4015 ("Air Act"); the Clean Streams Law, Act of June 22, 1937, P.L. 1987, as amended, 35 P.S. Sections 691.1-691.1001 ("Clean Streams Law"); the Hazardous Sites Cleanup Act of October 18, 1988, P.L. 756, No. 108, 35 P.S. §§6020.101-6020.1308 ("HSCA"); Section 1917-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, as amended, 71 P.S. §510-17 ("Administrative Code") and the rules and regulations of the Environmental Quality Board ("rules and regulations") promulgated thereunder; and

WHEREAS, the COA requires the Guarantor to submit to the Department a bond in the amount of ONE MILLION DOLLARS (\$1,000,000.00) in a form acceptable to the Department, guaranteeing it will conduct all activities required and authorized by the COA and that it will comply with all the requirements of the SWMA, the Clean Streams Law, the HSCA, Section 1917-A of the Administrative Code of 1929, and the rules and regulations of the Environmental Quality Board promulgated thereunder; and

WHEREAS, DER is willing to accept this Guaranty and Suretyship Agreement as guaranteeing the Guarantor's obligations.

NOW, THEREFORE, in consideration of the above premises and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the undersigned agree as follows:

1. Guaranty. The undersigned Guarantor irrevocably, unconditionally and absolutely guarantees to DER and becomes surety for the prompt and complete compliance with and performance by the Guarantor of all representations, warranties, covenants, agreements and other obligations to DER under the terms of the COA (the bond payment, compliance and performance obligations hereinabove guaranteed by the undersigned are hereinafter collectively referred to as the ("Guaranteed Obligations").

2. Term. This Agreement shall remain in full force and effect until all of the Guaranteed Obligations are fully, finally and irrevocably paid, complied with and performed.

3. Hold Harmless. Guarantor shall fully indemnify and save DER harmless from and pay, upon demand by DER, any and all costs, expenses and losses arising from any default by the Guarantor or otherwise under the COA.

4. Guarantor Obligations. In the event that any default occurs under the COA, the undersigned shall pay, comply with and perform such of the Guaranteed Obligations as DER shall direct.

5. DER shall have the right to require the undersigned to pay, comply with and perform the Guaranteed Obligations. DER shall also have the right to proceed immediately against the undersigned Guarantor for such payment, compliance and performance without being required to make any demand upon or bring any proceeding or take any other action of any kind against the Guarantor or any other person or entity in connection with the COA as a condition precedent to bringing an action upon this Agreement against the undersigned Guarantor. This Agreement shall be deemed an agreement of suretyship under the laws of the Commonwealth of Pennsylvania.

6. Confession of Judgment and Execution. The Guarantor hereby irrevocably authorizes and empowers any attorney of record, or the Prothonotary or Clerk of any court in the Commonwealth of Pennsylvania or elsewhere, to appear for Guarantor at any time or times, in any such court in any action brought against the Guarantor by DER with respect to the requirements of this Agreement, with or without declaration filed as of any term, and therein confess or enter judgment against the Guarantor for all sums payable by Guarantor to DER under this Agreement, as

evidenced by an affidavit signed by a duly authorized designee of DER setting forth such amount then due from the Guarantor to DER, with interest from the date of written demand at 10% per annum, costs, and attorney fees, with release of errors and without right of appeal. If a copy of this Agreement, verified by an affidavit, shall have been filed in such action, it shall not be necessary to file the original as a warrant of attorney. Guarantor waives the right to any stay of execution and the benefit of all exemption laws now or hereafter in effect. No single exercise of the foregoing warrant and power to bring any action to confess judgment herein shall be deemed to exhaust the power, but the power shall continue undiminished and may be exercised from time to time as often as DER or its designee shall elect until all amounts payable to DER or its designee under this Agreement shall have been paid in full. The Guarantor further agrees that execution may issue upon judgment so confessed for the full amount of money and accrued interest that is owing to DER with costs and collection fees, upon filing information in writing in the court where such judgment shall be entered.

7. Events not Affecting Obligations. Until all of the guaranteed Obligations are completely fulfilled to the satisfaction of DER and each and every one of the terms, covenants and conditions of this Agreement are fully performed, the liability of the undersigned Guarantor under this Agreement shall in no way be released or affected:

(a) By any act or circumstance which might, but for this paragraph 7, be deemed a legal or equitable discharge of any guarantor or surety; or

(b) By reason of the dissolution of the undersigned guarantor;

or

(c) By reason of the alteration, extension, modification, release or waiver of any of the terms, covenants and conditions contained in the COA; or

(d) By reasons of any waiver, extension, modification, forbearance or delay or other act or omission of DER or its failure to proceed promptly or otherwise with respect to the Guaranteed Obligations of this Agreement; or

(e) By the commencement, existence or completion of any proceeding against the Guarantor or otherwise related to the collection and enforcement of the Guaranteed Obligations; or

(f) By reason of any action taken or omitted or circumstances which might vary the risk or affect the rights or remedies of the undersigned with respect to the Guaranteed Obligations or this Agreement. The undersigned Guarantor hereby expressly waives and surrenders any defenses to its liability hereunder based upon any of the foregoing acts, omissions, agreements or waivers of DER, it being the purpose and intent of this Agreement that the obligations of the undersigned Guarantor hereunder are absolute and unconditional.

8. Guarantor Waiver. The undersigned Guarantor represents and acknowledges it has received and read all of the COA and the bond evidenced by the COA is and will be of direct interest, benefit and advantage to the undersigned Guarantor. The undersigned Guarantor

consents to all of the terms, covenants and conditions of the COA, and any other document governing or relating to any of the Guaranteed Obligations. The undersigned Guarantor hereby irrevocably waives any notice of compromise, forbearance, indulgence, amendment, modification, extension or renewal of any of the Guaranteed Obligations or any of the terms, covenants or conditions of the COA.

9. The undersigned Guarantor hereby irrevocably waives any notice of:

(a) DER's intention to act in reliance hereon or of its reliance hereon;

(b) Any presentment, demand, protest, notice of protest and of dishonor, notices of default and all other notices with respect to any of the Guaranteed Obligations; and

(c) The commencement or prosecution of any enforcement proceeding, including any proceeding in any court, against the Guarantor or any other person or entity with respect to any of the Guaranteed Obligations.

10. Representation and Warranties. The undersigned Guarantor represents, warrants, covenants and agrees:

(a) The Guarantor is a redevelopment authority duly authorized and existing under the laws of the Commonwealth of Pennsylvania and has the necessary power and authority to enter into this Agreement and perform its obligations under this Agreement and such

other agreement or instrument entered into or to be entered into by the Guarantor pursuant to this Agreement.

(b) The Guarantor has the power, authority and legal right to enter into this Agreement and perform its obligations under this Agreement and enter into such other agreement or instrument entered into or to be entered into by the Guarantor pursuant to its obligations under this Agreement, and the execution, delivery and performance hereof and thereof (1) have been duly authorized, (2) have the necessary approval of all governmental bodies whose approval is required, (3) will not violate any judgment, order, law or regulation applicable to the Guarantor and/or any provision of the Guarantor's articles of incorporation or by-laws and (4) do not constitute a default or result in the creation of a lien, charge, encumbrance or security interest upon any assets of the Guarantor, except in favor of DER, under any agreement or instrument to which the Guarantor is a party or by which the Guarantor or its assets are bound or affected.

(c) This Agreement and such other agreements or instruments entered into or to be entered into by Guarantor pursuant to this Agreement has been or shall have been duly entered into and has been delivered or shall have been delivered as of the date of this Agreement, and constitutes or shall constitute a legal, valid and binding obligation of the Guarantor and is or shall be enforceable in accordance with its or their terms.

(d) There are no pending or threatened actions or proceedings before any court of administrative agency which would affect the ability

of the Guarantor to perform its obligations under this Agreement or any other agreement or instrument executed or to be executed pursuant to this Agreement to which the Guarantor is, or is obligated to become, a party.

(e) That it will notify DER promptly of any material adverse change in this financial condition which could adversely affect Guarantor's ability to comply with the terms and conditions herein. Further, if DER should determine it to be necessary, after such notification by Guarantor, it will provide DER with sufficient collateral to ensure Guarantor's obligations hereunder.

(f) The Guarantor agrees that, during the term of this Guaranty and Suretyship Agreement, it will not reduce its cash and investment balances below that which is necessary to cover its obligations under this Agreement.

(g) That it will deliver to DER, should DER so request, within forty-five (45) days of their completion, financial statements prepared in accordance with generally accepted accounting principles consistently applied, which statements shall be certified as true and correct by an independent public accounting firm.

(h) That it will deliver to DER such other financial information as DER from time to time reasonably may request.

(i) That it will maintain complete and accurate books and records and make them available for inspection by DER as DER may reasonably request.

12. Severability. This Agreement shall be a continuing, absolute and unconditional guarantee regardless of the validity, regularity, enforceability or legality of:

(a) Any of the Guaranteed Obligations;

(b) Any term of any document evidencing or relating to any of the Guaranteed Obligations including the COA. In the event that for any reason one or more of the provisions of this Agreement or their application to any person or circumstance shall be held to be invalid, illegal or unenforceable in any respect or to any extent, such provisions shall nevertheless remain valid, legal and enforceable in all such other respects and to such extent as may be permissible, and such invalidity, illegality or unenforceability shall not affect any other provision hereof.

13. Notices. Any notice, demand or request hereunder shall be in writing and shall be deemed to have been sufficiently given for all purposes when personally presented or sent by certified or registered mail, return receipt requested, to such party at its address set forth below. Such notice shall be deemed to be given when received if delivered personally or two (2) days after the date mailed if sent by certified or registered mail. Whenever the giving of notice is required, the giving of such notice may be waived in writing by the party entitled to receive such notice.

To the Guarantor with a copy sent to the Chief Financial Officer at the same address:

Executive Director
Urban Redevelopment Authority of Pittsburgh
200 Ross Street
Pittsburgh, PA 15219

To DER:

George H. Knoll, Manager, Financial Responsibility
Management and Technical Services
P.O. Box 2063
6th Floor, Market Street State Office Building
Harrisburg, PA 17105-2063

14. Modification. No modification of this Agreement shall be effective unless in writing and signed by DER and the undersigned Guarantor.

15. Successors and Assigns. This Agreement shall be binding upon the undersigned, its Guarantor, respective successor and assigns, and shall inure to the benefit of DER, its successors and assigns.

16. Governing Law. This Agreement shall be construed in accordance with and governed in all respects by the laws of the Commonwealth of Pennsylvania.

17. No Waiver of Sovereign Immunity. This Agreement shall in no way be construed to act as a waiver of governmental, sovereign or any other applicable immunity accorded by the Commonwealth of Pennsylvania, the Department of Environmental Resources, and its officers, servants, agents or employees.

18. Time of the Essence. All dates and times for the performance of the Guarantor obligations set forth in this Agreement shall be deemed to be of the essence of this Agreement.

19. Remedies Cumulative.

(a) No right or remedy conferred upon or reserved to DER under this Agreement, or with respect to any guarantee of payment or of performance of any of the Guarantor's obligations under this Agreement, or now or hereafter existing at law or in equity or by statute or other legislative enactment, is intended to be or shall be deemed exclusive of any other such right or remedy, and each and every such right or remedy shall be cumulative and concurrent, and shall be in addition to every other such right or remedy, and may be pursued singly, concurrently, successively or otherwise, at the sole discretion of DER, and shall not be exhausted by any one exercise thereof but may be exercised as often as occasion therefore shall occur. No act of DER shall be deemed or construed as an election to proceed under any one such right or remedy to the exclusion of any other such right or remedy; furthermore, each right or remedy of DER shall be separate, distinct and cumulative and no one shall be given effect to the exclusion of any other.

(b) The recovery of any judgment by DER and/or the levy of execution under any judgment shall not affect in any manner or to any extent, any rights, remedies or powers of DER under this Agreement, but such rights, remedies and powers of DER shall continue unimpaired as before.

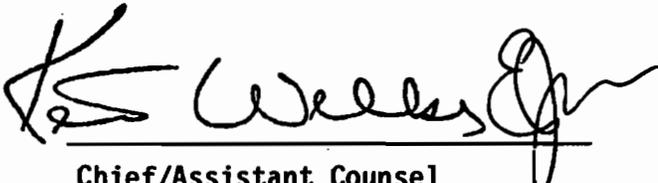
20. Headings. The headings of the paragraphs of this Agreement are for descriptive purposes only and are intended to have no legal force or effect.

21. Attached hereto as Appendix B-1 is a resolution of the Guarantor's Board of Directors authorizing its signature below to enter into this Agreement on its behalf.

ATTEST:

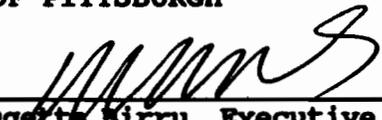

Assistant Secretary

APPROVED FOR LEGALITY AND FORM:


Chief/Assistant Counsel
Dept. of Environmental Resources

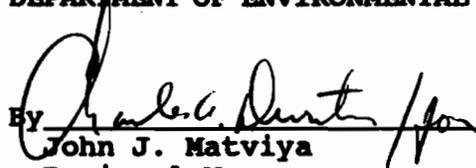
GUARANTOR:

URBAN REDEVELOPMENT AUTHORITY
OF PITTSBURGH

By 
Mulugeta Birru, Executive Director

APPROVED:

FOR THE COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF ENVIRONMENTAL RESOURCES

By 
John J. Matviya
Regional Manager
Environmental Cleanup Program
Southwest Region

SECRETARY'S CERTIFICATE

I, KATHLEEN M. TKACHIK, hereby certify that I am Assistant Secretary of URBAN REDEVELOPMENT AUTHORITY OF PITTSBURGH, and as such am in charge of the records and minute books of said Authority.

AND I DO FURTHER CERTIFY that the following is a true and correct copy of Resolution Number 305 duly adopted by the Board of said Authority at a Regular Meeting of the Members held July 8, 1993, at which meeting a quorum was present and voting throughout and that the same remain in full force and effect at the date of this Certificate.

RESOLUTION NO. 305 (1993)

RESOLVED: That the Executive Director, on behalf of the Authority, is hereby authorized and directed to execute a Guaranty and Suretyship Agreement between the Authority and the Pennsylvania Department of Environmental Resources to guarantee the Authority's compliance with the Consent Order and Agreement dated July 9, 1993 for the Pittsburgh Technology Center Project, and the Secretary or Assistant Secretary is authorized and directed to attest same and affix the seal of the Authority thereto.

IN WITNESS WHEREOF, I hereunto affix my signature and the seal of the Urban Redevelopment Authority of Pittsburgh this 14th day of July _____, 1993.



Assistant Secretary

**URBAN REDEVELOPMENT AUTHORITY OF PITTSBURGH
LEGAL DEPARTMENT**

**200 Ross Street
Pittsburgh, PA 15219
Fax (412) 255-6617**

TRANSMITTAL

OCTOBER 31, 1995

TO: MULUGETTA BIRRU
JEROME DETTORE
JAMES NAIRN
CHERYL TERAJ

FROM: JOSEPH GARITI, III
GENERAL COUNSEL

SUBJECT: PTC FIRST AMENDMENT TO CONSENT ORDER AND AGREEMENT

DOCUMENTS TRANSMITTED/COMMENTS:

FULLY EXECUTED COPY OF THE ABOVE AGREEMENT DATED OCTOBER 19, 1995.

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

IN THE MATTER OF:

Urban Redevelopment Authority	:	Clean Streams Law
of Pittsburgh	:	Solid Waste Management Act
Pittsburgh Technology Center	:	Air Pollution Control Act
City of Pittsburgh, Allegheny County	:	

**FIRST AMENDMENT TO CONSENT ORDER
AND AGREEMENT DATED JULY 9, 1993**

This First Amendment ("Amended CO&A") to Consent Order and Agreement dated July 9, 1993 ("CO&A") is entered into by and between the Commonwealth of Pennsylvania, Department of Environmental Protection ("Department") and the Urban Redevelopment Authority of Pittsburgh ("URA") this 19th day of October, 1995 in accordance with the provisions of Paragraph 21 of the CO&A.

The Department has found and determined the following findings of fact which the URA agrees are true and correct.

1. The Department and the URA met on March 8, 1995 to discuss future groundwater monitoring requirements for the URA Parcels identified as Parcel 4 (1-East) and Parcel 3 (1-East) ("Meeting").
2. The URA represented to the Department at the Meeting that elimination of the requirement for the URA to perform groundwater monitoring will assist the URA in development of URA Parcels 4 (1-East) and 3 (1-East).

3. The Department agreed at the Meeting to a cessation of quarterly groundwater monitoring by the URA of monitoring wells MW1 and MW22, located on Parcels 4 (1-East) and 2 (2-East), respectively. The URA agreed to maintain the aforementioned wells so that the Department may monitor groundwater quality at the Department's own cost and expense on these Parcels.

4. On May 9, 1995, the URA proposed to the Department that Parcels 3 (1-East), and Parcel 4 (1-East) be considered Development Parcels subject to the Paragraph 10 covenant not to sue contained in the CO&A.

5. The Department has reviewed the URA's May 9, 1995 request and agrees to amend the approved Groundwater Monitoring Plan submitted pursuant to Paragraph 2 of the CO&A and incorporated by reference as an obligation of the CO&A pursuant to Paragraph 9 of the CO&A to effectuate prompt development of Parcel 3 (1-East) and Parcel 4 (1-East) and to redesignate URA Parcels 3 (1-East) and 4 (1-East) to Development Parcels which are then subject to the Paragraph 10 covenant not to sue of the CO&A.

NOW, THEREFORE, the Department hereby AMENDS the CO&A as an ORDER of the Department issued pursuant to Paragraph 1 of the CO&A. The URA agrees to the terms and conditions of this First Amendment to the CO&A as follows:

A. The Department approved Groundwater Monitoring Plan submitted pursuant to Paragraph 2 of the CO&A is amended to delete the requirements for quarterly monitoring at monitoring wells MW1 and MW22 which are located on Parcels 4 (1-East) and 2 (2-East), respectively. The URA agrees to maintain MW-22 so that the Department may monitor

groundwater quality at its own cost and expense and to close MW-1 in accordance with accepted well abandonment procedures.

B. The URA shall provide the Department with access to MW-22 by turning over to the Department the keys and all field notes associated with past sampling under the CO&A upon request by the Department.

C. Finding of Fact G is amended by inserting "Parcels 3 (1-East) and 4 (1-East)," before "Parcel 2 (1-East)" in the fifth sentence and deleting "3 (1-East), 4 (1-East)" in the sixth sentence.

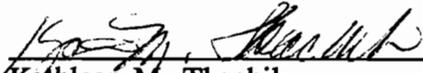
D. In all other respects, the Consent Order and Agreement dated July 9, 1993 remains in full force and effect as originally written.

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to Consent Order and Agreement to be executed by their duly authorized representatives. The undersigned representatives of the URA certify under penalty of law, as provided by 18 Pa. C.S. §4904, that they are authorized as evidenced by the attached resolution of the URA to execute this First Amendment to Consent Order and Agreement on behalf of the URA; that the URA consents to entry of this First Amendment to Consent Order and Agreement and the foregoing findings of fact as an ORDER of the Department; and, that the URA hereby knowingly waives its right to appeal this First Amendment to Consent Order and Agreement and to challenge the foregoing findings of fact in any subsequent proceeding, which rights may be available under Section 4 of the Environmental Hearing Board Act, 35 P.S. §7514; the Administrative Agency Law, 2 Pa. C.S. §103(a); and, Chapters 5A and 7A or any other provisions of law.

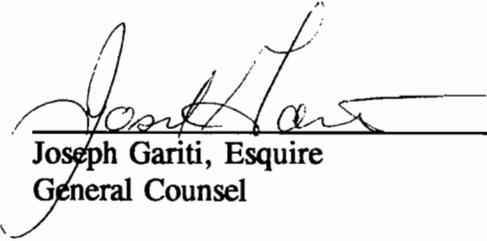
FOR THE URBAN
REDEVELOPMENT AUTHORITY:



Mulugetta Birru
Executive Director



Kathleen M. Tkachik
Assistant Secretary

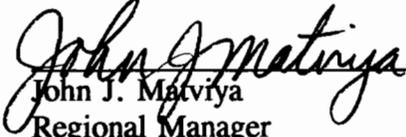


Joseph Gariti, Esquire
General Counsel

/caf

URA.amd

FOR THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
ENVIRONMENTAL PROTECTION:



John J. Matviya
Regional Manager
Environmental Cleanup
Southwest Region

 10/19/88

Kenneth T. Bowman
Assistant Counsel