



Legislation Text

File #: 24-0161, **Version:** 1

Resolution to Approve a Declaration of Restrictive Covenant for a Restricted Nonresidential Remedial Action at 2000 S. Industrial Highway, Ann Arbor

The attached resolution approves and authorizes the signature and recording of a restrictive covenant (RC) for the northeast corner of the City's property located at 2000 S. Industrial Highway relating to environmental contamination that resulted from an unknown orphan underground heating oil tank discovered in the spring 2021. The RC is the appropriate protocol under the Natural Resources and Environmental Protection Act (NREPA) and State of Michigan EGLE regulations. The purpose of the RC is to permanently record the presence of underground contamination on the property for future owners or users. The RC can be removed when the contamination is properly removed to EGLE standards.

The tank was discovered while installing an underground electrical line for EV charging stations. Appropriate notifications were made and the City retained the services of a qualified environmental consultant. The tank was identified as a long out of service heating oil tank for the building which was not identified on any state or local records. The deteriorated tank was drained, removed and testing identified contaminants in the soil consistent with heating oil. The area of contamination was delineated, and the soils removed, appropriately disposed of and the site backfilled. Because of the proximity of the tank to the office building on site, not all soils could be removed without impacting the building foundation. Testing identified contaminated soils underneath the building and on the northeast side of the building that could not be removed.

Since the building was occupied, the City frequently tested air quality in the building and air and soil quality underneath the building's concrete floor. There were no instances that the air quality in the building exceeded residential standards or that employees were at risk. At some point, if the building is removed, the remaining contaminated soils can be removed and the City can request that the RC be removed. The RC only covers a small portion in the northeast corner of the site underneath and adjacent to the office building. The entire site is already subject to land use restrictions as a result of a 1997 Corrective Action Notice agreement with the State of Michigan related to identified contamination from underground storage tanks that were removed in the 1990's.

The RC has been prepared by the City's environmental consultant and reviewed by the City Attorney's Office and the City's environmental attorney. If approved by City Council, the RC can be signed, recorded at the Washtenaw County Register of Deeds, and filed with EGLE to close out the project.

Prepared by: Matthew J. Kulhanek, Fleet & Facilities Manager

Reviewed by: John Fournier, Deputy City Administrator

Approved by: Milton Dohoney Jr., City Administrator

Whereas, An unknown and abandoned underground heating oil storage tank was discovered at 2000 S. Industrial Highway;

Whereas, Pursuant with State of Michigan Part 201 regulations, the underground tank and accessible

contaminated soils were properly removed; and

Whereas, A restrictive covenant for a portion of the site must be filed with the State of Michigan and recorded at the Washtenaw County Register of Deeds as some of the contaminated soils could not be removed without impacting the office building's foundation.

RESOLVED, That City Council approve the Declaration of Restrictive Covenant for a Restricted Nonresidential Remedial Action for filing with the State of Michigan EGLE and Washtenaw County Register of Deeds;

RESOLVED, That the Mayor and City Clerk be authorized and directed to execute said covenant after approval as to substance by the City Administrator and approval as to form by the City Attorney; and

RESOLVED, That the City Administrator is authorized to take all necessary actions to implement this resolution.