

VILLAGE OF DOWNERS GROVE
Report for the Village Council Meeting
11/3/2015

SUBJECT:	SUBMITTED BY:
Met-Coil Access Agreement	Enza I. Petrarca Village Attorney

SYNOPSIS

A resolution has been prepared to authorize execution of an agreement with Met-Coil Systems, LLC of Lisle, Illinois for access to the roadway and land underneath Walnut Avenue at about 5700 and 5703 Walnut Avenue for the purpose of abandoning two existing groundwater monitoring wells.

STRATEGIC PLAN ALIGNMENT

The goals for 2011-2018 include *Steward of Financial, Environmental and Neighborhood Sustainability*.

FISCAL IMPACT

N/A

RECOMMENDATION

Approval on the November 3, 2015 consent agenda.

BACKGROUND

In 2006, Met-Coil of Lisle and the Village entered into an access agreement which allowed Met-Coil to enter onto the Village's property for the purpose of conducting groundwater sampling of the existing monitoring wells on the property adjacent to 5700 and 5703 Walnut Avenue. Met-Coil hired environmental consultants to test the groundwater to determine whether there was contamination. The monitoring period has expired, and therefore, the wells can now be abandoned. Met-Coil has two (2) years to accomplish the abandonment.

ATTACHMENTS

Resolution
Access Agreement

RESOLUTION NO. ____**A RESOLUTION AUTHORIZING EXECUTION OF AN
ACCESS AGREEMENT BETWEEN THE VILLAGE OF DOWNERS GROVE
AND MET-COIL SYSTEMS, LLC.**

BE IT RESOLVED by the Village Council of the Village of Downers Grove, DuPage County, Illinois, as follows:

1. That the form and substance of a certain Access Agreement (the "Agreement"), between the Village of Downers Grove (the "Owner") and Met-Coil Systems, LLC ("Met-Coil"), for access to the right-of-way located adjacent to 5703 Walnut Avenue to conduct groundwater sampling, as set forth in the form of the Agreement submitted to this meeting with the recommendation of the Village Manager, is hereby approved.

2. That the Village Manager and Village Clerk are hereby respectively authorized and directed for and on behalf of the Village to execute, attest, seal and deliver the Agreement, substantially in the form approved in the foregoing paragraph of this Resolution, together with such changes as the Manager shall deem necessary.

3. That the proper officials, agents and employees of the Village are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform all obligations and commitments of the Village in accordance with the provisions of the Agreement.

4. That all resolutions or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed.

5. That this Resolution shall be in full force and effect from and after its passage as provided by law.

Mayor

Passed:

Attest: _____

Village Clerk

ACCESS AGREEMENT

This Access Agreement (“Agreement”) is made by and between Met-Coil Systems, LLC (“Met-Coil”), whose address is 711 Ogden Avenue, Lisle, Illinois, and the Village of Downers Grove whose address is 801 Burlington Avenue, Downers Grove, Illinois, 60515.

WHEREAS, Village of Downers Grove is the owner (hereinafter “Owner”) of the real property, located in the right of way adjacent to 5703 Walnut Avenue in the Village of Downers Grove, Illinois, (hereinafter referred to as “Property A”) and located in the right of way on Maple Avenue adjacent to 5700 Walnut Avenue in the Village of Downers Grove (hereinafter referred to as “Property B”). Property A and Property B are collectively referred to herein as the “Properties.” Attached hereto as Exhibit A is a map of the Properties; and

WHEREAS, Met-Coil requires Owner’s permission to enter upon and use the Properties for the purpose of abandoning one existing groundwater monitoring well on each of the Properties (hereinafter referred to as the “Work”) pursuant to the requirements of the Village of Downers Grove, the County of DuPage and the Illinois Department of Public Health and the protocols and procedures set forth in Exhibit B attached hereto; and

WHEREAS, Owner has agreed to allow Met-Coil, its agents, consultants, contractors, subcontractors and/or employees, access to each of the Properties for the sole purpose of conducting the Work.

NOW, THEREFORE, it is agreed that:

1. The forgoing recitals are hereby incorporated by reference as if set forth fully herein.
2. Subject to the conditions herein, upon execution of this Agreement, Owner hereby grants Met-Coil and its agents, consultants, contractors and/or employees a license to access, at

insurance as will protect against claims for bodily injury or death, or for damage to property, including loss of use, which may arise out of completion of the Work under this Agreement. Such insurance shall not be less than the greater of coverages and limits of liability specified below or any coverages and limits of liability specified in the Contract Documents or coverages and limits required by law unless otherwise agreed to by the Village.

Workers Compensation	\$500,000	Statutory
Employers Liability	\$1,000,000 \$1,000,000 \$1,000,000	Each Accident Disease Policy Limit Disease Each Employee
Comprehensive General Liability	\$2,000,000 \$2,000,000	Each Occurrence Aggregate <i>(Applicable on a Per Project Basis)</i>
Commercial Automobile Liability	\$1,000,000	Each Accident
Professional Errors & Omissions	\$2,000,000 \$2,000,000	Each Claim Annual Aggregate
Umbrella Liability	\$5,000,000	

Met-Coil and/or its consultants or contractors shall have their respective Comprehensive General Liability (including products/completed operations coverage), Employers Liability, Commercial Automobile Liability, and Umbrella/Excess Liability policies endorsed to add the "Village of Downers, its officers, officials, employees and volunteers" as "additional insureds" with respect to liability arising out of operations performed; claims for bodily injury or death brought against Village of Downers Grove by any Met-Coil employees, or the employees of Met-Coil's Consultants and/or Contractors, however caused, related to the performance of operations under the Contract Documents. Such insurance afforded to the Village of Downers Grove shall be endorsed to provide that the insurance provided under each policy shall be

Primary and Non-Contributory. The Village of Downers Grove shall have the right to examine any policy required and evidenced on the Certificate of Insurance.

9. Met-Coil agrees to hold Owner, its officers, directors, employees and agents harmless and fully indemnified at all times against and from any and all loss, damage, costs, expenses, and liability directly and/or consequentially resulting to any person or property by reason of the negligent or wrongful use of the right of access to the Property pursuant to this Agreement or any work done pursuant to this Agreement by Met-Coil, its contractors or subcontractors, or by reason of any act or thing done or omitted to be done during the access granted by this Agreement by Met-Coil, its consultants or contractors, in, upon, or about the Property or any part thereof; and Met-Coil agrees to hold Owner, its officers, directors, employees and agents harmless and free and clear of any and all claims, demands, penalties, liability, judgments, costs and expenses, including reasonable attorneys' fees, arising in connection with any use of the Property or condition of the Property caused by Met-Coil, its consultants or contractors resulting from the access granted by this Agreement. Without limiting the foregoing indemnity, Met-Coil further agrees to indemnify and hold harmless Owner from any claims, demands or losses resulting from environmental impairment arising out of the Work on the Property by any governmental authority or any third party based upon violation occurring within the course of the Work as outlined in this Agreement by Met-Coil of any ordinance, statute or regulation, local, State, or Federal, dealing with pollution, hazardous materials or other environmental matters if and to the extent that such claims are based on acts or omissions of Met-Coil in connection with the Work. Notwithstanding the foregoing, Met-Coil's indemnification of Owner shall not extend to damages covered by the negligent acts or omissions of Owner, its agents, invitees, or employees.

10. During the performance of any work performed in accordance with this Agreement, Met-Coil and its agents, consultants and contractors will follow all Illinois Department of Transportation daytime lane closure standards and all federal, State and local laws.

11. This Agreement and the legal relations of the parties shall be governed by the laws of the State of Illinois applicable to agreements negotiated, executed, delivered and fully performed in such state.

12. Whenever, under the terms of this Agreement, notice is required to be given or a document is required to be sent, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other party in writing.

As for Met-Coil Systems, LLC:

Met-Coil Systems, LLC
Attn: Arthur Bourlard
711 Ogden Avenue
Lisle, IL 60543

As for the Owner:

Village of Downers Grove
Attn: Enza Petrarca, Village Attorney
801 Burlington Avenue
Downers Grove, IL 60515

and

With a copy to:

Karen Kavanagh Mack
Deutsch, Levy & Engel, Chartered
225 West Washington Street
Suite 1700
Chicago, IL 60606

13. Met-Coil recognizes that the Village of Downers Grove is not a member of J.U.L.I.E. For location of Village streetlight, traffic signal and water facilities, and that it will call 630/434-5460 three business days in advance.

14. Met-Coil agrees to comply with all applicable Village ordinances and permit requirements.

15. This Agreement constitutes the entire agreement between the parties with respect to the access rights to the Property. Unless otherwise provided for herein, no amendments, changes, alterations, or modifications of this Agreement shall be effective unless in writing executed by Met-Coil and the Owner.

IN WITNESS WHEREOF, the parties have executed this Agreement by affixing respectively the signatures of duly authorized officers of the corporations, as of the effective date mentioned below.

MET-COIL SYSTEMS, LLC

By: Arthur Bourlard *Arthur V. Bourlard*
Title: Environmental Project Manager
Date: 13 OCT 2015

SUBSCRIBED AND SWORN TO before me this 13 day of OCT, 2015.

Nancy A. Weibler
Notary Public



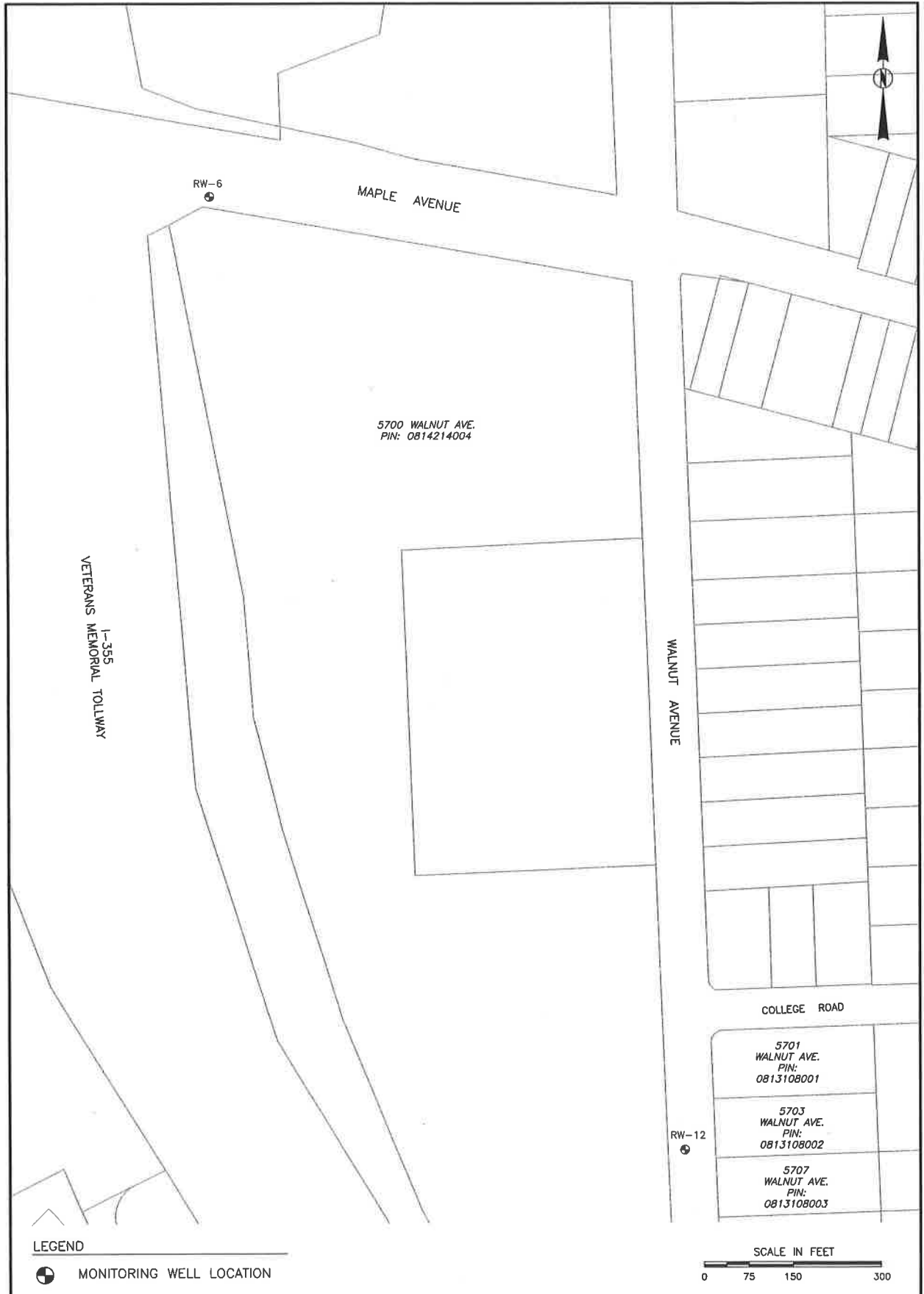
VILLAGE OF DOWNERS GROVE

Attest:

By: _____
Title: _____
Date: _____

April Holden, Village Clerk

EXHIBIT A



CHECK BY	DL
DRAWN BY	OS
DATE	7-28-15
SCALE	AS SHOWN
CAD NO.	65263.10M1
PRJ NO.	15-65263.10

WELL ABANDONMENT MAP
VILLAGE OF DOWNERS GROVE

THE LOCKFORMER SITE
711 W. OGDEN AVENUE
LISLE, ILLINOIS

SM&A
ST. JOHN, MITTELMEYER & ASSOCIATES

FIGURE
1

EXHIBIT B

The existing groundwater monitoring wells installed in the bedrock will be properly abandoned per DuPage County and Illinois Department of Public Health (IDPH) requirements. The monitoring wells will be abandoned by removing the concrete pads and protective flush-mount covers. The open core holes in the bedrock will be backfilled with pea gravel. The steel riser/casing for each well will be removed to a minimum of three feet below ground surface and the resulting annular space will be filled with bentonite grout, tremied into place, and completed with asphalt/topsoil/grass seed to match the existing surface conditions. All debris will be removed from the property for proper disposal.