


Gannett Fleming

**GANNETT FLEMING ENGINEERS
AND ARCHITECTS, P.C.**
480 Forest Avenue
P.O. Box 707
Locust Valley, NY 11560-0707

Phone: (516) 671-8440
Fax: (516) 671-3349
Internet: www.gannettfleming.com

FAX TRANSMITTAL FORM

Job #: 34413

[illegible]

CONFIDENTIAL NOTICE

The documents accompanying this fax transmission may contain information belonging to the sender which is legally privileged, confidential and exempt from disclosure. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, or the employee of the intended recipient, or the agent responsible for delivering this message, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this faxed information is strictly prohibited. If you have received this fax in error, please contact us by telephone to arrange for the return of the original documents to us.

5.6 Escrow Holder's Execution. The Escrow Holder has executed this Contract for the sole purpose of agreeing to act as such in accordance with the terms of this paragraph "5".

6. CONDITION OF PROPERTY

6.1 "AS IS" SALE. BUYER ACKNOWLEDGES AND AGREES THAT (i) THE PROPERTY (as defined in paragraph "1.4") IS SOLD "AS IS", "WHERE IS", AND "WITH ALL FAULTS" IN ITS EXISTING CONDITION AS OF THE EFFECTIVE DATE AND WITHOUT ANY REPRESENTATION, WARRANTY OR GUARANTEE REGARDING THE PROPERTY'S CONDITION, FITNESS FOR ANY PARTICULAR PURPOSE, MERCHANTABILITY, OR COMPLIANCE WITH GOVERNMENTAL LAWS, ORDINANCES OR REGULATIONS, OR ANY OTHER WARRANTY, EXPRESS OR IMPLIED, (ii) BUYER SHALL PURCHASE THE PROPERTY BASED SOLELY ON BUYER'S OWN INDEPENDENT INVESTIGATION AND INSPECTION OF THE PROPERTY AND BUYER'S INDEPENDENT EVALUATION THEREOF, AND (iii) SELLER IS NOT OBLIGATED TO ALTER, MODIFY, REMEDIATE OR IMPROVE THE PROPERTY BEFORE CLOSING.

6.2 Obligations of Buyer Regarding Systems and Lines. Buyer acknowledges that the Systems and Lines are located in, under and across the Property. It is Buyer's responsibility, at its sole cost and expense, to assure that any activities at the Property do not affect, interfere with or damage the Systems and Lines.

6.3 Buyer's Acknowledgment. Buyer acknowledges and agrees that prior to the Effective Date, it had the complete opportunity to review and evaluate the condition of the Property including, without limitation, environmental conditions, including the environmental cap (as more particularly described in paragraph "7" below), drainage, title, zoning, the developability of the Property, the availability of utility services to the Property, the subdivision of the Property, the compliance of the Property with applicable law, and any other matter pertinent to Buyer's inspection of the Property. Buyer agrees to accept the Property in its "as is" condition as of the Effective Date in accordance with this paragraph "6".

7. ENVIRONMENTAL MATTERS

7.1 Definitions

For the purpose of this paragraph "7", the following definitions shall apply:

A. "Environmental Laws" means the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9601 et seq., as amended; the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6901 et seq., as amended; the Clean Air Act ("CAA"), 42 U.S.C. 7401 et seq., as amended; the Clean Water Act ("CWA"), 33 U.S.C. 1251 et

seq., as amended; and any other federal, state, local or municipal laws, statutes, regulations, rules or ordinances imposing liability or establishing standards for protection of the environment.

B. "Hazardous Substances" means any element, compound or chemical, that is defined, listed or otherwise classified as a pollutant, toxic pollutant, toxic or hazardous waste, special waste, or hazardous substance under Environmental Laws.

C. "Release" means any spilling, leaking, pumping, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing (including the abandonment or discarding of barrels, containers or other closed receptacles containing Hazardous Substances) of Hazardous Substances.

7.2 Environmental Condition. The Property is part of a site that is listed on the New York State Department of Environmental Conservation ("DEC") Registry of Inactive Hazardous Waste Sites and is known as site #1-30-003A. Seller has provided to Buyer a copy of a letter report entitled Soil and Groundwater Sampling, dated February 1997 and a Supplemental Phase II site assessment for the Property dated June 26, 1997. Buyer acknowledges that it has had the opportunity to review and evaluate the environmental condition of the Property and accepts the Property in its "as is" "where is" condition "with all faults". Buyer also acknowledges that it has reviewed the environmental terms and conditions specified in the Deed and agrees to those environmental terms and conditions. Notwithstanding anything to the contrary in this paragraph or in paragraph "6" above, if DEC or any other governmental agency requires remediation of the Property by Buyer because of the presence of the Hazardous Substances reported in the above-referenced reports, Buyer's acceptance of the Property in its "as is" "where is" condition "with all faults" shall not be used as a defense by Seller in an action by Buyer.

7.3 Environmental Requirements. Seller has installed an asphalt containment system (hereinafter referred to as the "Cap") which prevents the soil under the Property from being exposed to rain and other conditions that may cause the Release, spreading or leaching of Hazardous Substances. Buyer shall maintain the Cap. Buyer's obligation to maintain the Cap shall include, but not be limited to: (1) the obligation to avoid causing or permitting the Cap to be breached, damaged or destroyed so that the soil under the Property may be exposed to conditions that may cause the Release, spreading or leaching of Hazardous Substances; (2) prompt repair or replacement with an equivalent containment system of any portion of the Cap that is breached, damaged or destroyed; and (3) consulting an environmental engineer prior to any action that may affect the Cap or the soil under the Property. Buyer's obligation to maintain the Cap and, consequently the restriction on constructing improvements on the Property, shall continue until Buyer remediates the soil and groundwater under the Property so that the soil and groundwater under the Property no longer contain Hazardous Substances at concentrations that exceed DEC requirements or guidelines for the protection of human health and the environment or when DEC provides a letter stating that the Property is no longer subject to restrictions because of the presence of Hazardous Substances. Buyer shall indemnify, defend (with legal counsel acceptable to Seller) and hold Seller harmless from and

against all costs, expenses and claims, including, without limitation, consultant and attorney fees, arising out of or related to the breach of Buyer's obligations regarding the Cap set forth in this paragraph, including, without limitation, the Release, spreading or leaching of Hazardous Substances that are currently at or under the Property. Buyer's obligations regarding the Cap shall be in the Deed and shall run with the land. Seller have the right to inspect the Property as provided in the Declaration of Environmental Easement attached hereto as Exhibit "L".

7.4 Confidentiality. Any and all of the environmental assessments, studies, test results, reports, plans, records and documents (collectively referred to as "Environmental Documents") regarding the Property given to or in receipt of Buyer and/or its officers, employees, agents, contractors and lenders, shall be held in confidence and shall not be disclosed to any third party unless required under Environmental Laws or permitted by Seller. Buyer may provide copies of Environmental Documents to its consultants, contractors, tenants and lenders without seeking Seller's permission as long as such parties agree in writing to be bound by the terms of this Contract.

8. VARIANCE

8.1 Variance. Buyer acknowledges that as of the Effective Date the Property is a "land locked" parcel without public street frontage. The Property has street access through the Parcel W site lying to the north (the "Parcel W Property") which is owned by Buyer's affiliate, Steel B, LLC. Seller is responsible, at its own cost and expense, to obtain a street frontage variance (the "Variance") for the Property from the Town of Oyster Bay or the Town of Hempstead, whichever is applicable, using the Parcel W Property as the access route to the Property. Seller agrees to diligently pursue the Variance. Buyer agrees to provide, at its sole cost and expense, an easement satisfactory to the Town of Oyster Bay or the Town of Hempstead, as the case may be, over the Parcel W Property. Buyer further acknowledges that Seller cannot make the application for the Approval (as defined in paragraph "9") without first obtaining the Variance, and Seller cannot make the application for the Variance until Buyer has delivered the aforesaid easement. Buyer therefore agrees to diligently pursue and deliver the easement to Seller within seven (7) days of the Effective Date.

8.2 Buyer's Consent. Buyer acknowledges that as part of the approval process for the Variance, the applicable governmental agencies may impose certain conditions, covenants, restrictions and/or agreements to be recorded against the Property prior to or after Closing. Seller shall provide Buyer with notice prior to meetings with the applicable governmental agencies and an opportunity to attend and participate in meetings regarding issues that may affect the Property. Buyer consents to the imposition of reasonable conditions, covenants, restrictions and/or agreements required by the governmental agencies.

8.3 Buyer's Cooperation. If required, Buyer shall provide reasonable cooperation to Seller to assist Seller in its efforts to obtain the Variance, including, without limitation, attending meetings with the Seller and Town of Oyster Bay or the Town of Hempstead,