

New York State Department Environmental Conservation

**Property Owner Acknowledgment/Consent for Demolition of the Structure and
Remediation of the Property Located at 66 Herhill Road, City of Glen Cove, Nassau
County, New York**

ARTICLE 27 OF THE ENVIRONMENTAL CONSERVATION LAW

This agreement made this 22nd day of March, 2021 between BNC REALTY LLC. hereinafter referred to as "OWNER", and the COMMISSIONER OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION FOR THE PEOPLE OF THE STATE OF NEW YORK, hereinafter referred to as "DEPARTMENT" pursuant to the above cited law,

WITNESSETH:

WHEREAS, the owner represents as follows:

- a. That the OWNER owns the real property, or some right, title or interest therein, which property is referred to as the "Crown Dykman Site" or "Property" or "Site" or some right, title or interest therein, which property has a street address at 66 Herhill Road, City of Glen Cove, Nassau County, New York and shown on a survey attached as Schedule "A" and being more particularly described within the Deed dated March 3, 2014 which is contained within Appendix "A" attached hereto, and made a part hereof;
- b. That said ownership consists of fee title interest which was acquired by the OWNER at the time and in the manner following:

By the Deed dated March 3, 2014 contained within Appendix "A" hereto and recorded in the Office of the Nassau County Clerk on March 26, 2014 at Liber 13058/pages 494-497.

WHEREAS, Environmental Conservation Law (ECL) § 27-1309 (3)-(4) and § 27-1313 (8) authorizes the DEPARTMENT and its contractors (or the duly authorized Responsible Person, its employees, agents, consultants, contractors and subcontractors acting at the direction of the DEPARTMENT, so authorized by the DEPARTMENT in writing) to enter any inactive hazardous waste disposal site and properties near such site to inspect and collect samples, and to implement an inactive hazardous waste disposal site remedial program for such site. This is not a notice that the DEPARTMENT intends to acquire the above specified property nor is it an offer to acquire it.

WHEREAS, the Site is listed in the *Registry of Inactive Hazardous Waste Disposal Sites in New York State* with a Class "2" classification indicating that the Site is a significant threat to the public health or the environment. The DEPARTMENT issued a Record of Decision (the "ROD") for the Site dated March 2010 (the "ROD"). The selected remedy is "Source Area In-

Situ Chemical Oxidation and Natural Attenuation". The DEPARTMENT is conducting a state funded remedial program for the Site.

WHEREAS, the OWNER executed a Consent Order with the DEPARTMENT (Index No. W1-1160-11-11) dated March 5, 2014, which provides for, among other things, compliance with the Environmental Easement for the Site dated March 5, 2014, which provides for, among other things, access to the Site for the purpose of completing the remedial program for the Site, including the design, construction, and maintenance and monitoring of the remedy selected in the ROD, and the restriction of the future use of the Site; exercise of due care as it concerns existing contamination at the Site; cooperation with the DEPARTMENT and the provision of access to the DEPARTMENT in the implementation of response actions at the Site.

WHEREAS, the DEPARTMENT has completed but not yet approved a Focused Feasibility Study for the Site. The DEPARTMENT will prepare and issue a Proposed Amended Record of Decision for the Site, subject to a minimum thirty-day public comment period. Following the public comment period, an Amended Record of Decision for the Site will be issued. The DEPARTMENT anticipates completing a Remedial Design, followed by procurement of a remedial construction contractor to implement the amended remedy for the Site.

WHEREAS, the demolition of the building situated on the Site will allow the DEPARTMENT to remove a greater quantity of contamination beneath the Site building. New York State Division of the Budget approval to procure the contract for the Site building demolition and remediation has been obtained. Barring any unforeseen circumstances, the DEPARTMENT expects that the Office of the New York State Comptroller approval of the Site building demolition and remediation contract will be obtained no later than the third quarter of 2021 and anticipates that procurement and implementation of building demolition and remediation will be substantially completed by the first quarter of 2022. Upon approval, the Office of the New York State Comptroller's approval of the Site building demolition and remediation contract is available on the Office of the New York State Comptroller's website at Open Book NY webpage at <https://www2.osc.state.ny.us/transparency/contracts/contractsearch.cfm>. The DEPARTMENT's building demolition and remediation contract is expected to specify that work must be substantially completed within 124 plus 20 days from when the contract is executed and final completion must be obtained 138 plus 20 days from the effective date of this Agreement. An assessment of the building to support the demolition has been initiated by the DEPARTMENT. The actual schedule is dependent on receipt of Office of New York State Comptroller approval of the Site building demolition and remediation contract described in paragraph 2 below.

WHEREAS, the DEPARTMENT has appropriate funding for the remaining remediation at the Site, including Site building demolition and engineering services. Demolition of the Site building will not commence until the construction contract for the Site's remediation, which will include Site building demolition work, is approved by the Office of the State Comptroller and the DEPARTMENT has provided written notice described in Paragraph 1 and 2(C) below to the OWNER.

NOW THEREFORE, SUBJECT to the immediately preceding "WHEREAS" clause and the following terms, the parties hereto agree as follows:

1. Conditioned on the DEPARTMENT providing the Owner with prior written notice by certified mail, return receipt requested as required below sent to:

Lisa Colletti
27 Jaegger Drive
Glen Head, NY 11545

AND VIA EMAIL ONLY TO

Frederick Eisenbud Esq.
feisenbud@cmmlp.com
Campolo, Middleton & McCormick, LLP
4175 Veterans Memorial Highway
Suite 400
Ronkonkoma, New York 11779

Based on the Departments agreement to comply with the requirements of paragraph 2 of this Agreement, OWNER hereby acknowledges and provides consent to the DEPARTMENT for the demolition of the Site building noted on the attached survey and remediation of the property upon which the Site building is located on, to wit:

Site Address: 66 Herhill Road, City of Glen Cove, Nassau County, New York

Legal Description: Section: 31

Block: G

Lots: 211 and 9

2. The DEPARTMENT hereby agrees as follows:

- A. All plans required for remediation of the premises shall be approved by the DEPARTMENT prior to approval of the construction contract for the Site's building demolition and remediation; and
- B. To aid OWNER's ability to timely remove property from the building before demolition, and to schedule the timing for the termination of any tenant occupancy of the building, the DEPARTMENT shall provide OWNER with concurrent written notice to the public of the 30 day period for comment on the proposed Amended ROD for the Site, as well as written notice of the DEPARTMENT's issuance of a notice of intent to award the contract for the Site building demolition and remediation of the Site; and
- C. Entry on the Site to commence demolition shall not occur less than 90 days from the effective date of this Agreement nor before written notice of commencement of demolition is provided to the OWNER at least fourteen (14) days before demolition is to commence. The Department may provide the minimum fourteen days prior notification for commencement of the Site building demolition work in its written notification that the Comptroller has approved the contract; and

- D. Remediation required by the construction contract shall commence promptly upon completion of the demolition of the Site building and shall continue until the DEPARTMENT determines that no further action to complete remediation of the Site is required other than Site management including groundwater monitoring, maintenance of a cover, and additional injections if warranted based on periodic monitoring results; and
- E. To promptly remove all construction and demolition debris generated by the demolition of the Site building and to dispose of the debris in accordance with applicable statutory and regulatory requirements; and
- F. Any equipment, supplies or materials on-Site at the time of the Site building demolition will be disposed of by the DEPARTMENT's contractor as part of the construction and demolition debris in accordance with applicable laws and regulations; and
- G. The building demolition and remediation contract will require that all contaminated soil removed will be replaced with clean fill and properly compacted, all monitoring wells damaged by the demolition and remediation will be properly removed in compliance with DEPARTMENT requirements, or replaced as directed by the DEPARTMENT, and any asphalt removed or damaged in order to complete the demolition or remediation will be replaced by the same thickness and grade of asphalt.

3. The effective date of this Agreement is the date it is signed by the DEPARTMENT's Director, Division of Environmental Remediation (the "DER Director") or the DER Director's designee.

BNC REALTY LLC.. OWNER _____

By: Robert Cornide

Title: Member

Date: 3/8/21

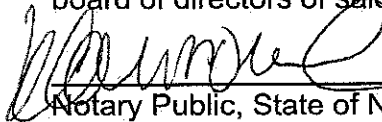
STATE OF NEW YORK)

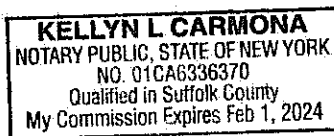
COUNTY OF)

) ss:

Deletion Approved RE

On the 8th day of March in the year 2021, before me, the undersigned, personally appeared Robert Cornide (full name) personally known to me who, being duly sworn, did depose and say that he/she/they reside at 66 Herkhill Rd Glen Cove NY (full mailing address) and that he/she/they is (are) the Member (president or other officer or director or attorney in fact duly appointed) of the BNC Realty LLC (full legal name of corporation), the corporation described in and which executed the above instrument; and that he/she/they signed his/her/their name(s) thereto by the authority of the board of directors of said corporation.


Notary Public, State of New York



NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

Dated: 3/8/21

By:  MAR 22 2021
Michael Ryan, P.E.
Director
Division of Environmental Remediation