

APPENDIX B

DEED RESTRICTION

This Appendix will include a copy of the Deed Restrictions. The figure/survey and metes/bounds description of the restricted areas must also be included in this Appendix as one is not always filed with the county clerk. In addition, this Appendix should include copies of any required access agreements of other properties required to perform site management activities.

EXHIBIT "C"

Deed Restriction

DECLARATION OF COVENANTS AND RESTRICTIONS

THIS COVENANT made this ____ day of ___, 2020, by the City of New York (“City”), a municipal corporation organized and existing under the laws of the State of New York (“State”), acting by and through the New York City Department of Parks and Recreation (“DPR”) and having an office for the transaction of business 830 Fifth Avenue, New York, New York, 10065, in favor of the New York State Department of Environmental Conservation (“Department”), an agency of the State, with offices at 625 Broadway, Albany, New York, 12233 (collectively “Parties”);

WHEREAS, City is the owner of and DPR has jurisdiction over roughly 58 acres of parkland located in the Red Hook neighborhood of Brooklyn, County of Kings and State of New York, shown in Deed Restriction Exhibit “A” (“Red Hook Park”).

WHEREAS, the land subject to these Covenants and Restrictions is a 4.17-acre portion of Red Hook Park, and is known and designated as Block 581, Lot 1 developed with four baseball fields numbers 5, 6, 7, and 8; and ball field 9, a 3.4 acre portion of Red Hook Recreation Area, and is known and designated as Kings County Tax Map Block 614, Lot 300; and Block 602, Lot 1 (collectively the “Property”) as shown on Deed Restriction Exhibit “A” and described in Deed Restriction Exhibit “B”.

WHEREAS, Environmental Protection Agency (“EPA”) has found a release of a Comprehensive Environmental Response, Compensation Liability Act (“CERCLA”) hazardous substance, as defined in Section 101(22) of CERCLA, 42 U.S.C. Section § 9601(22), at the Property and EPA found that a CERCLA removal action is warranted to mitigate the threat to public health or welfare posed by the presence of the hazardous substance at the Property. EPA has required the City to undertake CERCLA action to address the hazardous substance at the Property.

WHEREAS, in a Consent Order dated July 2016, Index No. CERCLA-02-2016-2010 (“Order”) between EPA and City, EPA selected a remedial action for the Property pursuant to CERCLA, which provided for, in pertinent part, the installation of a demarcation fabric placed over the existing contaminated soil and the placement of one foot of new soil above on the Property, preventing further public exposure.

WHEREAS, the Order further provides a Site Management Plan (“SMP”) will be implemented on the Property, the implementation of which will be overseen by the Department.

WHEREAS, the Parties hereto have agreed that City shall execute a deed restriction for the Property to run with the land in perpetuity that recites and requires compliance with the SMP, as identified in the Order.

WHEREAS, City wishes to cooperate fully with the Department in the implementation of the SMP at the Property.

NOW THEREFORE, the City, for itself and its successors and/or assigns, covenants that:

First, the Property subject to this Declaration of Covenants and Restrictions is as shown on a map attached to this declaration as Deed Restriction Exhibit “A” and described in Deed Restriction Exhibit “B” and made a part hereof.

Second, unless prior written approval by the Department or, if the Department shall no longer exist, any New York State agency or agencies subsequently created to protect the environment of the State and the health of the State’s citizens, hereinafter referred to as “the Relevant Agency,” is first obtained, where contamination remains at the Property subject to the provisions of the SMP, there shall be no construction, use or occupancy of the Property that results in the disturbance or excavation of the Property which threatens the integrity of the engineering controls or which results in unacceptable human exposure to contaminated soils.

Third, the owner of the Property shall not disturb, remove, or otherwise interfere with the installation, use, operation, and maintenance of engineering controls required for the Remedy, which are described in the SMP, unless in each instance the owner first obtains a written waiver of such prohibition from the Department or Relevant Agency.

Fourth, the Property shall not be used for purposes other than for parkland use, without the express written waiver of such prohibition by the Department or Relevant Agency.

Fifth, the owner of the Property shall prohibit the use of the groundwater underlying the Property from extraction points on the Property or from other property under their control, without treatment to render it safe for drinking water or for industrial purposes, as appropriate, and the user must first notify and obtain written approval to do so from the Department or Relevant Agency.

Sixth, the owner of the Property shall provide a periodic certification, prepared and submitted by a professional engineer or environmental professional acceptable to the Department or Relevant Agency, which will certify that the institutional and engineering controls put in place are unchanged from the previous certification, comply with the SMP, and have not been impaired.

Seventh, the owner of the Property shall continue in full force and effect any institutional and engineering controls required for the Remedy and maintain such controls, unless the owner first obtains permission to discontinue such controls from the Department or Relevant Agency, in compliance with the approved SMP, which is incorporated and made enforceable hereto, subject to modifications as approved by the Department or Relevant Agency.

Eighth, this Declaration is and shall be deemed a covenant that shall run with the land and shall be binding upon all future owners of the Property, and shall provide that the owner and its successors and assigns consent to enforcement by the Department or Relevant Agency of the prohibitions and restrictions that the Order requires to be recorded, and hereby covenant not to contest the authority of the Department or Relevant Agency to seek enforcement.

Ninth, any deed of conveyance of the Property, or any portion thereof, shall recite, unless the Department or Relevant Agency has consented to the termination of such covenants and

restrictions, that said conveyance is subject to this Declaration of Covenants and Restrictions.

Tenth, City shall record this instrument, within thirty (30) days of execution of this instrument by the Commissioner or her/his authorized representative in the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law

IN WITNESS WHEREOF, City has caused this instrument to be signed in its name.

Executed this ____ day of _____, 2020.
New York City/ Department of Parks and Recreation

By: _____

Title: _____

Acknowledgment

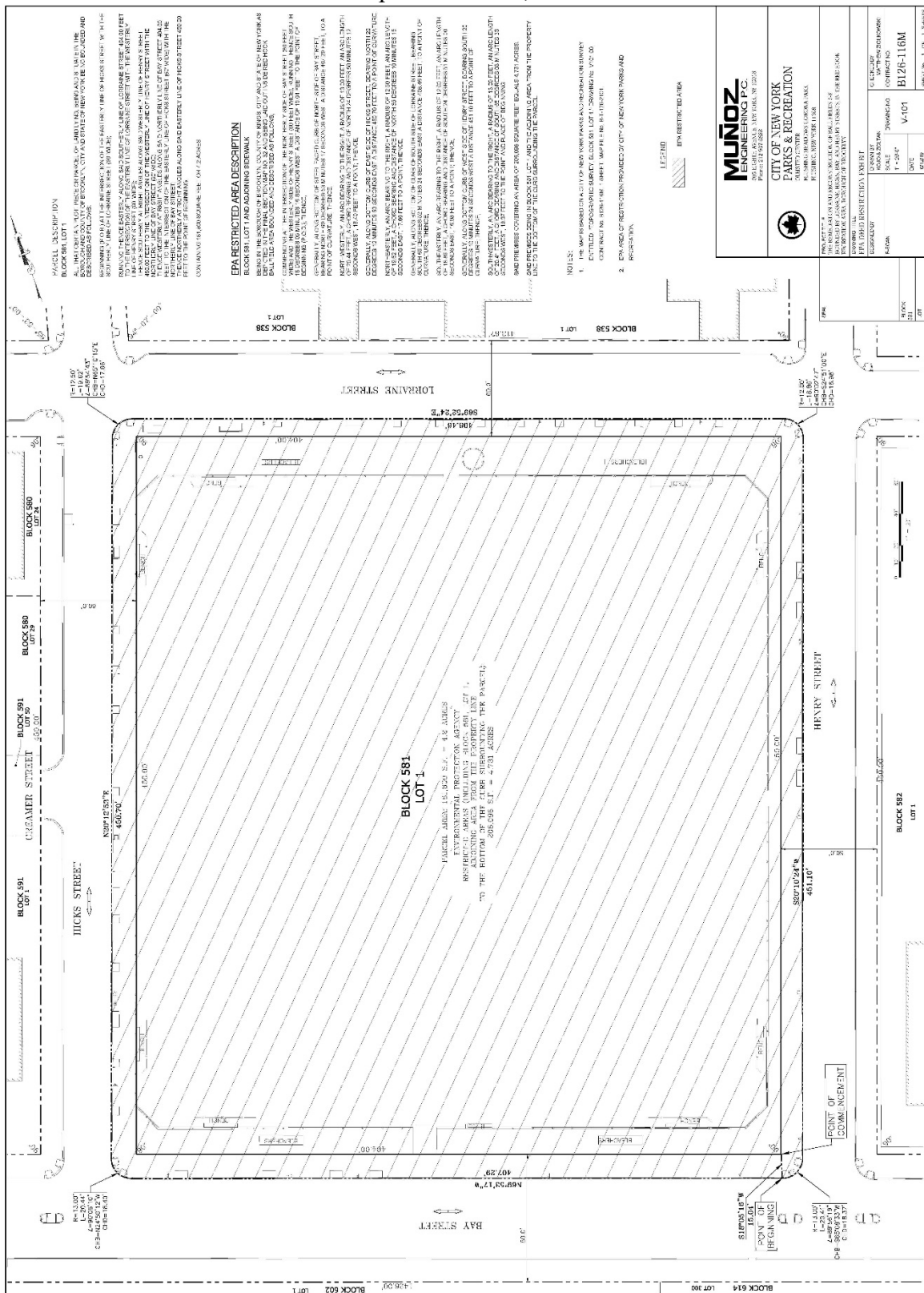
State of New York)
) ss:
County of Kings)

On the ____ day of ____, in the year 2020, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

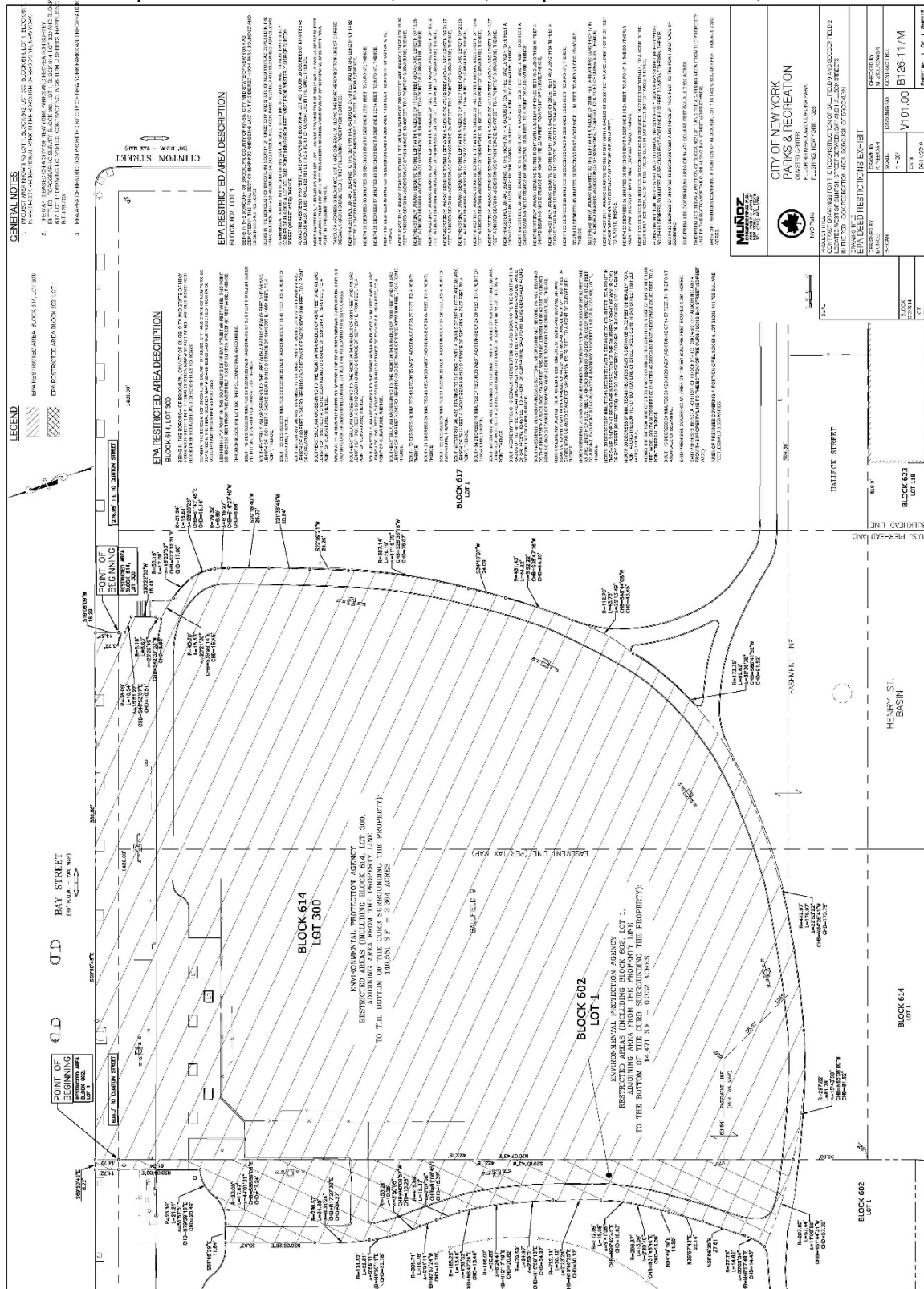
Notary Public – State of New York

Deed Restriction Exhibit "A"

Map – Block 581, Lot 1



Map – Portion of Block 614, Lot 300; and portion of Block 602, Lot 1



Deed Restriction Exhibit "B"

BLOCK 581 Lot 1
ENVIRONMENTAL PROTECTION AGENCY RESTRICTED AREA

BEING IN THE BOROUGH OF BROOKLYN, COUNTY OF KINGS, CITY AND STATE OF NEW YORK AS DEPICTED IN THE FINAL SECTION MAP NO. 32 AND BEING LAID OUT INSIDE RED HOOK BALLFIELD AREA BOUNDED AND DESCRIBED AS FOLLOWS;

COMMENCING AT THE INTERSECTION OF THE NORTHERLY SIDE OF BAY STREET (80 FEET WIDE) AND THE WESTERLY SIDE OF HENRY STREET (60 FEET WIDE), RUNNING THENCE SOUTH 18 DEGREES 05 MINUTES 16 SECONDS WEST A DISTANCE OF 15.04 FEET TO THE POINT OF BEGINNING (P.O.B.); THENCE,

GENERALLY, ALONG BOTTOM OF STEEL FACED CURB OF NORTH SIDE OF BAY STREET, BEARING NORTH 69 DEGREES 53 MINUTES 17 SECONDS WEST A DISTANCE 407.29 FEET, TO A POINT OF CURVATURE; THENCE,

NORTHWESTERLY, AN ARC BEARING TO THE RIGHT, A RADIUS OF 13.00 FEET, AN ARC LENGTH OF 20.44 FEET, A CHORD BEARING AND DISTANCE OF NORTH 24 DEGREES 50 MINUTES 12 SECONDS WEST, 18.40 FEET TO A POINT; THENCE,

GENERALLY, ALONG BOTTOM CURB OF EAST SIDE OF HICKS STREET, BEARING NORTH 20 DEGREES 12 MINUTES 53 SECONDS EAST A DISTANCE 450.70 FEET TO A POINT OF CURVATURE;

NORTHEASTERLY, AN ARC BEARING TO THE RIGHT, A RADIUS OF 12.50 FEET, AN ARC LENGTH OF 19.62 FEET, A CHORD BEARING AND DISTANCE OF NORTH 65 DEGREES 10 MINUTES 15 SECONDS EAST, 17.66 FEET TO A POINT; THENCE,

GENERALLY, ALONG BOTTOM OF CURB OF SOUTH SIDE OF LORRAINE STREET, BEARING SOUTH 69 DEGREES 52 MINUTES 24 SECONDS EAST A DISTANCE 408.46 FEET, TO A POINT OF CURVATURE; THENCE,

SOUTHEASTERLY, AN ARC BEARING TO THE RIGHT, A RADIUS OF 12.00 FEET, AN ARC LENGTH OF 18.86 FEET, A CHORD BEARING AND DISTANCE OF SOUTH 24 DEGREES 51 MINUTES 00 SECONDS EAST, 16.98 FEET TO A POINT; THENCE,

GENERALLY, ALONG BOTTOM CURB OF WEST SIDE OF HENRY STREET, BEARING SOUTH 20 DEGREES 10 MINUTES 24 SECONDS WEST A DISTANCE 451.10 FEET TO A POINT OF CURVATURE; THENCE,

SOUTHWESTERLY, AN ARC BEARING TO THE RIGHT, A RADIUS OF 13.00 FEET, AN ARC LENGTH OF 20.41 FEET, A CHORD BEARING AND DISTANCE OF SOUTH 65 DEGREES 08 MINUTES 33 SECONDS WEST, 18.37 FEET TO THE POINT AND PLACE OF BEGINNING.

SAID PREMISES COVERING AN AREA OF 206,096 SQUARE FEET EQUALS 4.731 ACRES.

SAID PREMISES BEING IN BLOCK 581 LOT 1 AND THE ADJOINING AREA FROM THE PROPERTY LINE TO THE BOTTOM OF THE CURB SURROUNDING THE PARCEL.

PART OF BLOCK 614 Lot 300
ENVIRONMENTAL PROTECTION AGENCY RESTRICTED AREA

BEING IN THE BOROUGH OF BROOKLYN, COUNTY OF KINGS, CITY AND STATE OF NEW YORK AS DEPICTED IN THE FINAL SECTION MAP # 32 AND BEING LAID OUT INSIDE RED HOOK PARK BOUNDED AND DESCRIBED AS FOLLOWS;

BEGINNING AT A POINT ON THE SOUTHERLY SIDE OF BAY STREET (80 FEET WIDE), SAID POINT BEING 276.95 FEET FROM THE WESTERLY SIDE OF CLINTON STREET (80 FEET WIDE); THENCE,

THROUGH BLOCK 614, LOT 300, THE FOLLOWING FIVE (5) COURSES.

SOUTH 19 DEGREES 08 MINUTES 09 SECONDS WEST A DISTANCE OF 3.72 FEET THROUGH BLOCK 614 LOT 300, TO A POINT OF CURVATURE; THENCE,

SOUTHEASTERLY, AN ARC BEARING TO THE LEFT WITH A RADIUS OF 38.09 FEET AND AN ARC LENGTH OF 10.54 FEET A CHORD BEARING AND DISTANCE OF S46°53'07"E, 10.51 FEET, TO A POINT; THENCE,

SOUTH 20 DEGREES 22 MINUTES 02 SECONDS WEST A DISTANCE OF 15.41 FEET, TO A POINT OF CURVATURE; THENCE,

SOUTHWESTERLY, AN ARC BEARING TO THE RIGHT WITH A RADIUS OF 8.18 FEET AND AN ARC LENGTH OF 3.63 FEET A CHORD BEARING AND DISTANCE OF S42°37'03"W, 3.60 FEET, TO A POINT OF CURVATURE;

SOUTHEASTERLY, AN ARC BEARING TO THE RIGHT WITH A RADIUS OF 43.70 FEET AND AN ARC LENGTH OF 15.53 FEET A CHORD BEARING AND DISTANCE OF S39°29'14"E, 15.45 FEET, TO A POINT OF CURVATURE; THENCE,

GENERALLY, ALONG THE EXTERIOR BOTTOM LINE OF CURBED SIDEWALK AROUND BALLFIELD 9 AND THROUGH AFORESAID BLOCK 614, LOT 300, THE FOLLOWING NINE (9) COURSES.

SOUTHEASTERLY, AN ARC BEARING TO THE RIGHT WITH A RADIUS OF 53.18 FEET AND AN ARC LENGTH OF 17.08 FEET A CHORD BEARING AND DISTANCE OF S27°12'31"E, 17.00 FEET, TO A POINT OF CURVATURE; THENCE,

SOUTHEASTERLY, AN ARC BEARING TO THE RIGHT WITH A RADIUS OF 31.94 FEET AND AN ARC LENGTH OF 15.61 FEET A CHORD BEARING AND DISTANCE OF S01°47'45"E, 15.46 FEET, TO A POINT OF CURVATURE; THENCE,

SOUTHEASTERLY, AN ARC BEARING TO THE RIGHT WITH A RADIUS OF 79.32 FEET AND AN ARC LENGTH OF 8.69 FEET A CHORD BEARING AND DISTANCE OF S16°27'40"W, 8.68 FEET, TO A POINT; THENCE,

SOUTH 20 DEGREES 18 MINUTES 40 SECONDS WEST A DISTANCE OF 25.37 FEET, TO A POINT; THENCE

SOUTH 21 DEGREES 38 MINUTES 46 SECONDS WEST A DISTANCE OF 25.64 FEET, TO A POINT; THENCE,

SOUTH 22 DEGREES 09 MINUTES 21 SECONDS WEST A DISTANCE OF 24.26 FEET, TO A POINT OF CURVATURE; THENCE,

SOUTHWESTERLY, AN ARC BEARING TO THE RIGHT WITH A RADIUS OF 387.14 FEET AND AN ARC LENGTH OF 76.19 FEET A CHORD BEARING AND DISTANCE OF S28°36'18"W, 76.07 FEET, TO A POINT; THENCE,

SOUTH 34 DEGREES 16 MINUTES 07 SECONDS WEST A DISTANCE OF 24.09 FEET, TO A POINT OF CURVATURE; THENCE,

SOUTHWESTERLY, AN ARC BEARING TO THE RIGHT WITH A RADIUS OF 431.43 FEET AND AN ARC LENGTH OF 44.22 FEET A CHORD BEARING AND DISTANCE OF S38°47'16"W, 44.20 FEET, TO A POINT; THENCE,

SOUTHWESTERLY THROUGH SIDEWALK INTERSECTION, AN ARC BEARING TO THE RIGHT WITH A RADIUS OF 112.70 FEET AND AN ARC LENGTH OF 43.73 FEET A CHORD BEARING AND DISTANCE OF S48°44'08"W, 43.45 FEET, TO A POINT OF CURVATURE, SAID POINT BEING GENERALLY ALONG BOTTOM LINE OF CURB; THENCE,

SOUTHWESTERLY, ALONG AFORESAID BOTTOM LINE OF CURB AND BEYOND, AN ARC BEARING TO THE RIGHT WITH A RADIUS OF 173.35 FEET AND AN ARC LENGTH OF 92.62 FEET A CHORD BEARING AND DISTANCE OF S66°41'52"W, 91.52 FEET, TO A POINT OF CURVATURE; THENCE,

NORTHWESTERLY, ALONG THE AFORESAID BOTTOM LINE OF CURB AND BEYOND, AN ARC BEARING TO THE RIGHT WITH A RADIUS OF 442.97 FEET AND AN ARC LENGTH OF 176.97 FEET A CHORD BEARING AND DISTANCE OF N84°26'41"W, 175.79 FEET, TO A POINT OF CURVATURE; THENCE,

NORTHWESTERLY, ALONG AN ARC BEARING TO THE RIGHT WITH A RADIUS OF 297.82 FEET AND AN ARC LENGTH OF 81.78 FEET, A CHORD BEARING AND DISTANCE OF N65°08'00"W, 81.52 FEET, TO A POINT, SAID POINT BEING ALONG THE EASTERLY PROPERTY LINE OF BLOCK 602, LOT 1; THENCE,

NORTH 20 DEGREES 07 MINUTES 43 SECONDS EAST A DISTANCE OF 423.18 FEET, TO A POINT IN THE SAME, SAID POINT BEING THE INTERSECTION OF THE SOUTHERLY RIGHT OF WAY (R.O.W.) OF BAY STREET (80 FEET WIDE) AND SOUTHEASTERLY CORNER OF BLOCK 602, LOT 1; THENCE,

NORTH 20 DEGREES 07 MINUTES 43 SECONDS EAST A DISTANCE 14.72 FEET GENERALLY, TO A POINT ALONG THE SOUTHERLY BOTTOM LINE OF STEEL FACED CURB IN BAY STREET (80 FEET WIDE); THENCE,

ALONG THE BOTTOM LINE OF STEEL FACED CURB ON THE SOUTHERLY SIDE OF BAY STREET (80 FEET WIDE), SOUTH 69 DEGREES 50 MINUTES 45 SECONDS EAST A DISTANCE 330.80 FEET, TO A POINT THEREIN; THENCE,

SOUTH 19 DEGREES 08 MINUTES 09 SECONDS WEST A DISTANCE OF 14.57 FEET, TO THE POINT AND PLACE OF BEGINNING.

SAID PREMISES COVERING AN AREA OF 146,551 SQUARE FEET EQUALS 3.364 ACRES. SAID PREMISES BEING A PORTION OF BLOCK 614 LOT 300 AND THE ADJOINING AREA FROM THE PROPERTY LINE TO THE BOTTOM OF THE CURB ALONG BAY STREET (80 FEET WIDE).

AREA OF PREMISES COVERING A PORTION OF BLOCK 614, LOT 300 IS 141,705 SQUARE FEET, EQUALS 3.253 ACRES.