

BARCLAY DAMON ^{LLP}

Courtney M. Merriman
Partner

April 4, 2017

RECEIVED
APR 10 2017
BY:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Bureau of Remediation
Office of General Counsel, 14th Floor
New York State Department of Environmental Conservation
625 Broadway
Albany, NY 12233-1500

Re: Clifton MGP (Edgewater) – Environmental Easement
Address: (no street number) Willow Avenue (a/k/a 40 Willow Avenue)
Staten Island, New York
Owner: The Brooklyn Union Gas Company
Site No.: 2-43-023

Dear Ladies and Gentlemen:

Enclosed please find the following documentation pertaining to the above-referenced matter:

1. Photocopy of the filing receipt from the Richmond County Clerk for the filing of the Environmental Easement;
2. Proof of mailing of the municipality notification letter to the Borough President of the Borough of Staten Island;
3. Proof of mailing of the municipality notification letter to the Staten Island Buildings Department.

I trust this satisfies the final requirements related to the Environmental Easement at this location. Should you require any further information, please do not hesitate to contact me.

Very truly yours,


Courtney M. Merriman

CMM:jml
Enclosures

cc: Bradford Burns, Esq.

Barclay Damon Tower – 125 East Jefferson Street – Syracuse, New York 13202 barclaydamon.com
cmerriman@barclaydamon.com Direct: 315 425 2715 Fax: 315 703 7359



Office of the
Richmond County Clerk
130 Stuyvesant Place
Staten Island, NY 10301

Hon. Stephen J. Fiala, County Clerk



ACS-000000000547148-000000000727644-010

Recording and Endorsement Cover Page

Document Type: EASEMENT COMMERCIAL
Document Page Count: 10

PRESENTER:
ALL STATE ABSTRACT CORP.
52 BROADWAY

GREENLAWN, NY 11740

RETURN TO:
BARCLAY DAEMON, LLP
BARCLAY DAEMON TOWER
125 E. JEFFERSON STREET
SYRACUSE, NY 13202-980

Block	Lot	PROPERTY DATA	# OF BLOCKS	Unit	# OF LOTS
2842	50	Entire Lot	1		1

PARTIES

GRANTOR
THE BROOKLYN UNION GAS CO. D/B/A NAT. GRID
1 METROTECH CENTER

BROOKLYN, NY 11201

GRANTEE
PEOPLE OF THE SONY ACTING THROUGH NYSDEC
625 BROADWAY

ALBANY, NY 12233

SUPPORTING DOCUMENTS

RPT
TP-584

PAYMENT DETAIL

Make Checks Payable to:

Richmond County Clerk: 55.00 Recording Fees

Total Payments For This Document: 55.00

FEES PAID

EXAM A

DATE 2/23/17

RECORDED IN RICHMOND COUNTY

FEB 28 2017

LAND DOC# 642543

232-EASEMENT

RETT: 5553 \$.00

RPT: 5553 \$.00

02/28/2017 11:08:17 A.M.

RECEIPT: 3713 FEE: \$55.00

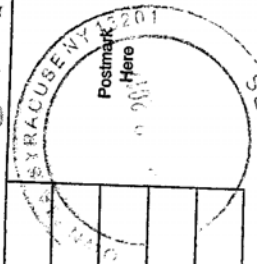
RICHMOND COUNTY CLERK

[Signature]

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$



Sent To **James S. Oddo, President**

Street, Apt. No., PO Box No. **Staten Island Borough Hall
10 Richmond Terrace**

City, State, Zip+4 **Staten Island, NY 10301**

PS Form 3800, August 2006

See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

JAMES S ODDO

PRESIDENT

OFFICE OF THE BOROUGH PRESIDENT

STATEN ISLAND BOROUGH HALL

10 RICHMOND TERRACE

STATEN ISLAND NY 10301



9590 9402 2113 6132 5462 68

2. Article Number (Transfer from service label)

7014 0510 0001 0187 1350

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

[Signature]

☐ Agent

☐ Addressee

B. Received by (Printed Name)

Michael C. [Signature]

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☐ Adult Signature

☐ Adult Signature Restricted Delivery

☒ Certified Mail®

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

☐ Insured Mail

☐ Insured Mail Restricted Delivery (over \$500)

☐ Priority Mail Express®

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☒ Return Receipt for Merchandise

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

BARCLAY DAMON^{LLP}

Courtney M. Merriman
Partner

March 7, 2017

VIA CERTIFIED MAIL

James S. Oddo, President
Office of the Borough President
Staten Island Borough Hall
10 Richmond Terrace
Staten Island, NY 10301

Re: Borough Staten Island, Clifton MGP Environmental Easement
Address: (no street number) Willow Avenue (a/k/a 40 Willow Avenue),
Borough of Staten Island, New York
Owner: The Brooklyn Union Gas Company
Site No.: 2-43-023

Dear President Oddo:

Attached please find a copy of an Environmental Easement granted to the New York State Department of Environmental Conservation ("Department")

on January 17, 2017,
by The Brooklyn Union Gas Company
for property at (no street number) Willow Avenue (a/k/a 40 Willow Avenue), Staten Island, New York
Tax Map No. 5-2842-50
DEC Site No: 2-43-023

This Environmental Easement restricts future use of the above-referenced property to restricted commercial and industrial use. Any on-site activity must be done in accordance with the Environmental Easement and the Site Management Plan which is incorporated into the Environmental Easement. Department approval is also required prior to any groundwater use.

Article 71, Section 71-3607 of the New York State Environmental Conservation Law requires that:

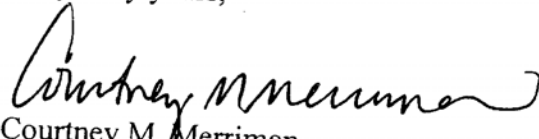
1. Whenever the department is granted an environmental easement, it shall provide each affected local government with a copy of such easement and shall

also provide a copy of any documents modifying or terminating such environmental easement.

2. Whenever an affected local government receives an application for a building permit or any other application affecting land use or development of land that is subject to an environmental easement and that may relate to or impact such easement, the affected local government shall notify the department and refer such application to the department. The department shall evaluate whether the application is consistent with the environmental easement and shall notify the affected local government of its determination in a timely fashion, considering the time frame for the local government's review of the application. The affected local government shall not approve the application until it receives approval from the department.

An electronic version of every environmental easement that has been accepted by the Department is available to the public at: <http://www.dec.ny.gov/chemical/36045.html>. Please forward this notice to your building and/or planning departments, as applicable, to ensure your compliance with these provisions of New York State Environmental Conservation Law. If you have any questions or comments regarding this matter, please do not hesitate to contact me.

Very truly yours,


Courtney M. Merriman

CMM/jml
Attachment

cc: Buildings Department, Staten Island Borough Office (w/attachment)



Office of the
Richmond County Clerk
130 Stuyvesant Place
Staten Island, NY 10301

Hon. Stephen J. Fiala, County Clerk



ACS-000000000547148-000000000727644-010

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PARTIES

GRANTOR
THE BROOKLYN UNION GAS CO. D/B/A NAT. GRID
1 METROTECH CENTER

BROOKLYN, NY 11201

GRANTEE
PEOPLE OF THE SONY ACTING THROUGH NYSDEC
625 BROADWAY

ALBANY, NY 12233

SUPPORTING DOCUMENTS

RPT
TP-584

PAYMENT DETAIL

Make Checks Payable to:

Richmond County Clerk:

55.00 Recording Fees

Total Payments For This Document:

55.00

FEES PAID

EXAM

[Signature]

DATE

2/23/17

RECORDED IN RICHMOND COUNTY

FEB 28 2017

LAND DOC# 642543

23Z-EASEMENT

RETT: 5553 \$1.00

RPT: 5553 \$1.00

02/28/2017 11:08:17 A.M.

RECEIPT: 8713 FEE: \$55.00

RICHMOND COUNTY CLERK

[Signature]

County: Richmond Site No: 243023 Order on Consent Index : D2-0001-98-04

**ENVIRONMENTAL EASEMENT GRANTED PURSUANT TO ARTICLE 71, TITLE 36
OF THE NEW YORK STATE ENVIRONMENTAL CONSERVATION LAW**

THIS INDENTURE made this 17th day of JANUARY, 2017 between Owner(s) The Brooklyn Union Gas Company d/b/a National Grid, having an office at 1 Metrotech Center, Brooklyn, New York 11201, County of Kings, State of New York (the "Grantor"), and The People of the State of New York (the "Grantee."), acting through their Commissioner of the Department of Environmental Conservation (the "Commissioner", or "NYSDEC" or "Department" as the context requires) with its headquarters located at 625 Broadway, Albany, New York 12233,

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to encourage the remediation of abandoned and likely contaminated properties ("sites") that threaten the health and vitality of the communities they burden while at the same time ensuring the protection of public health and the environment; and

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to establish within the Department a statutory environmental remediation program that includes the use of Environmental Easements as an enforceable means of ensuring the performance of operation, maintenance, and/or monitoring requirements and the restriction of future uses of the land, when an environmental remediation project leaves residual contamination at levels that have been determined to be safe for a specific use, but not all uses, or which includes engineered structures that must be maintained or protected against damage to perform properly and be effective, or which requires groundwater use or soil management restrictions; and

WHEREAS, the Legislature of the State of New York has declared that Environmental Easement shall mean an interest in real property, created under and subject to the provisions of Article 71, Title 36 of the New York State Environmental Conservation Law ("ECL") which contains a use restriction and/or a prohibition on the use of land in a manner inconsistent with engineering controls which are intended to ensure the long term effectiveness of a site remedial program or eliminate potential exposure pathways to hazardous waste or petroleum; and

WHEREAS, Grantor, is the owner of real property located at the address of Willow Avenue (a/k/a 25 and 40 Willow Avenue) in the City of New York, County of Richmond and State of New York, known and designated on the tax map of the New York City Department of Finance as tax map parcel number: Block 2842 Lot 50, being the same as that property conveyed to Grantor by deed dated December 15, 1965 and recorded in the Richmond County Clerk's Office in Liber and Page 1720/430. The property subject to this Environmental Easement (the "Controlled Property") comprises approximately 0.501 +/- acres, and is hereinafter more fully described in the Land Title Survey dated June 15, 2016 prepared by Kenny L. Kennon, P.L.S., which will be attached to the Site Management Plan. The Controlled Property description is set forth in and attached hereto as Schedule A; and

WHEREAS, the Department accepts this Environmental Easement in order to ensure the protection of public health and the environment and to achieve the requirements for remediation established for the Controlled Property until such time as this Environmental Easement is

County: Richmond Site No: 243023 Order on Consent Index : D2-0001-98-04

extinguished pursuant to ECL Article 71, Title 36; and

NOW THEREFORE, in consideration of the mutual covenants contained herein and the terms and conditions of Order on Consent Index Number: D2-0001-98-04, Grantor conveys to Grantee a permanent Environmental Easement pursuant to ECL Article 71, Title 36 in, on, over, under, and upon the Controlled Property as more fully described herein ("Environmental Easement")

1. Purposes. Grantor and Grantee acknowledge that the Purposes of this Environmental Easement are: to convey to Grantee real property rights and interests that will run with the land in perpetuity in order to provide an effective and enforceable means of encouraging the reuse and redevelopment of this Controlled Property at a level that has been determined to be safe for a specific use while ensuring the performance of operation, maintenance, and/or monitoring requirements; and to ensure the restriction of future uses of the land that are inconsistent with the above-stated purpose.

2. Institutional and Engineering Controls. The controls and requirements listed in the Department approved Site Management Plan ("SMP") including any and all Department approved amendments to the SMP are incorporated into and made part of this Environmental Easement. These controls and requirements apply to the use of the Controlled Property, run with the land, are binding on the Grantor and the Grantor's successors and assigns, and are enforceable in law or equity against any owner of the Controlled Property, any lessees and any person using the Controlled Property.

A. (1) The Controlled Property may be used for:

Commercial as described in 6 NYCRR Part 375-1.8(g)(2)(iii) and Industrial as described in 6 NYCRR Part 375-1.8(g)(2)(iv)

(2) All Engineering Controls must be operated and maintained as specified in the Site Management Plan (SMP);

(3) All Engineering Controls must be inspected at a frequency and in a manner defined in the SMP;

(4) The use of groundwater underlying the property is prohibited without necessary water quality treatment as determined by the NYSDOH or the New York City Department of Health and Mental Hygiene to render it safe for use as drinking water or for industrial purposes, and the user must first notify and obtain written approval to do so from the Department;

(5) Groundwater and other environmental or public health monitoring must be performed as defined in the SMP;

(6) Data and information pertinent to Site Management of the Controlled Property must be reported at the frequency and in a manner defined in the SMP;

(7) All future activities on the property that will disturb remaining

County: Richmond Site No: 243023 Order on Consent Index : D2-0001-98-04

contaminated material must be conducted in accordance with the SMP;

(8) Monitoring to assess the performance and effectiveness of the remedy must be performed as defined in the SMP;

(9) Operation, maintenance, monitoring, inspection, and reporting of any mechanical or physical components of the remedy shall be performed as defined in the SMP;

(10) Access to the site must be provided to agents, employees or other representatives of the State of New York with reasonable prior notice to the property owner to assure compliance with the restrictions identified by this Environmental Easement.

B. The Controlled Property shall not be used for Residential or Restricted Residential purposes as defined in 6NYCRR 375-1.8(g)(2)(i) and (ii), and the above-stated engineering controls may not be discontinued without an amendment or extinguishment of this Environmental Easement.

C. The SMP describes obligations that the Grantor assumes on behalf of Grantor, its successors and assigns. The Grantor's assumption of the obligations contained in the SMP which may include sampling, monitoring, and/or operating a treatment system, and providing certified reports to the NYSDEC, is and remains a fundamental element of the Department's determination that the Controlled Property is safe for a specific use, but not all uses. The SMP may be modified in accordance with the Department's statutory and regulatory authority. The Grantor and all successors and assigns, assume the burden of complying with the SMP and obtaining an up-to-date version of the SMP from:

Site Control Section
Division of Environmental Remediation
NYSDEC
625 Broadway
Albany, New York 12233
Phone: (518) 402-9553

D. Grantor must provide all persons who acquire any interest in the Controlled Property a true and complete copy of the SMP that the Department approves for the Controlled Property and all Department-approved amendments to that SMP.

E. Grantor covenants and agrees that until such time as the Environmental Easement is extinguished in accordance with the requirements of ECL Article 71, Title 36 of the ECL, the property deed and all subsequent instruments of conveyance relating to the Controlled Property shall state in at least fifteen-point bold-faced type:

**This property is subject to an Environmental Easement held
by the New York State Department of Environmental Conservation**

County: Richmond Site No: 243023 Order on Consent Index : D2-0001-98-04

pursuant to Title 36 of Article 71 of the Environmental Conservation Law.

F. Grantor covenants and agrees that this Environmental Easement shall be incorporated in full or by reference in any leases, licenses, or other instruments granting a right to use the Controlled Property.

G. Grantor covenants and agrees that it shall, at such time as NYSDEC may require, submit to NYSDEC a written statement by an expert the NYSDEC may find acceptable certifying under penalty of perjury, in such form and manner as the Department may require, that:

(1) the inspection of the site to confirm the effectiveness of the institutional and engineering controls required by the remedial program was performed under the direction of the individual set forth at 6 NYCRR Part 375-1.8(h)(3).

(2) the institutional controls and/or engineering controls employed at such site:

(i) are in-place;

(ii) are unchanged from the previous certification, or that any identified changes to the controls employed were approved by the NYSDEC and that all controls are in the Department-approved format; and

(iii) that nothing has occurred that would impair the ability of such control to protect the public health and environment;

(3) the owner will continue to allow access to such real property to evaluate the continued maintenance of such controls;

(4) nothing has occurred that would constitute a violation or failure to comply with any site management plan for such controls;

(5) the report and all attachments were prepared under the direction of, and reviewed by, the party making the certification;

(6) to the best of his/her knowledge and belief, the work and conclusions described in this certification are in accordance with the requirements of the site remedial program, and generally accepted engineering practices; and

(7) the information presented is accurate and complete.

3. Right to Enter and Inspect. Grantee, its agents, employees, or other representatives of the State may enter and inspect the Controlled Property in a reasonable manner and at reasonable times to assure compliance with the above-stated restrictions.

4. Reserved Grantor's Rights. Grantor reserves for itself, its assigns, representatives, and successors in interest with respect to the Property, all rights as fee owner of the Property, including:

A. Use of the Controlled Property for all purposes not inconsistent with, or limited by the terms of this Environmental Easement;

B. The right to give, sell, assign, or otherwise transfer part or all of the underlying fee interest to the Controlled Property, subject and subordinate to this Environmental Easement;

5. Enforcement

County: Richmond Site No: 243023 Order on Consent Index : D2-0001-98-04

A. This Environmental Easement is enforceable in law or equity in perpetuity by Grantor, Grantee, or any affected local government, as defined in ECL Section 71-3603, against the owner of the Property, any lessees, and any person using the land. Enforcement shall not be defeated because of any subsequent adverse possession, laches, estoppel, or waiver. It is not a defense in any action to enforce this Environmental Easement that: it is not appurtenant to an interest in real property; it is not of a character that has been recognized traditionally at common law; it imposes a negative burden; it imposes affirmative obligations upon the owner of any interest in the burdened property; the benefit does not touch or concern real property; there is no privity of estate or of contract; or it imposes an unreasonable restraint on alienation.

B. If any person violates this Environmental Easement, the Grantee may revoke the Certificate of Completion with respect to the Controlled Property.

C. Grantee shall notify Grantor of a breach or suspected breach of any of the terms of this Environmental Easement. Such notice shall set forth how Grantor can cure such breach or suspected breach and give Grantor a reasonable amount of time from the date of receipt of notice in which to cure. At the expiration of such period of time to cure, or any extensions granted by Grantee, the Grantee shall notify Grantor of any failure to adequately cure the breach or suspected breach, and Grantee may take any other appropriate action reasonably necessary to remedy any breach of this Environmental Easement, including the commencement of any proceedings in accordance with applicable law.

D. The failure of Grantee to enforce any of the terms contained herein shall not be deemed a waiver of any such term nor bar any enforcement rights.

6. Notice. Whenever notice to the Grantee (other than the annual certification) or approval from the Grantee is required, the Party providing such notice or seeking such approval shall identify the Controlled Property by referencing the following information:

County, NYSDEC Site Number, NYSDEC Brownfield Cleanup Agreement, State Assistance Contract or Order Number, and the County tax map number or the Liber and Page or computerized system identification number.

Parties shall address correspondence to: Site Number: 243023
Office of General Counsel
NYSDEC
625 Broadway
Albany New York 12233-5500

With a copy to: Site Control Section
Division of Environmental Remediation
NYSDEC
625 Broadway
Albany, NY 12233

All notices and correspondence shall be delivered by hand, by registered mail or by Certified mail and return receipt requested. The Parties may provide for other means of receiving and communicating notices and responses to requests for approval.

County: Richmond Site No: 243023 Order on Consent Index : D2-0001-98-04

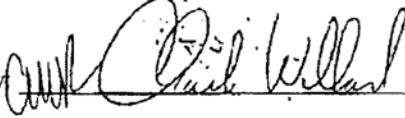
7. Recordation. Grantor shall record this instrument, within thirty (30) days of execution of this instrument by the Commissioner or her/his authorized representative in the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.
8. Amendment. Any amendment to this Environmental Easement may only be executed by the Commissioner of the New York State Department of Environmental Conservation or the Commissioner's Designee, and filed with 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.
9. Extinguishment. This Environmental Easement may be extinguished only by a release by the Commissioner of the New York State Department of Environmental Conservation, or the Commissioner's Designee, and filed with 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.
10. Joint Obligation. If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.

Remainder of Page Intentionally Left Blank

County: Richmond Site No: 243023 Order on Consent Index : D2-0001-98-04

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

The Brooklyn Union Gas Company d/b/a National Grid:

By 

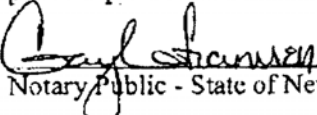
Print Name: Charles Willard

Title: Authorized Rep Date: 11/17/2016

Grantor's Acknowledgment

STATE OF NEW YORK)
) ss:
COUNTY OF ONONDAGA)

On the 17th day of November in the year 20 16, before me, the undersigned, personally appeared Charles Willard, personally known to me or proved to me on the basis of satisfactory evidence to be the individual who 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

64
GAYL LYNN FRANSSEN
Notary Public, State of New York
No. 01FR6220451
Qualified in Onondaga County
Commission Expires Apr. 12, 2018

County: Richmond Site No: 243023 Order on Consent Index : D2-0001-98-04

THIS ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY THE PEOPLE OF THE STATE OF NEW YORK, Acting By and Through the Department of Environmental Conservation as Designee of the Commissioner,

By:

Robert W. Schick, Director
Division of Environmental Remediation

Grantee's Acknowledgment

[illegible]

On the 17th day of January, in the year 2017, before me, the undersigned, personally appeared Robert W. Schick, 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/ executed the same in his/her/ capacity as Designee of the Commissioner of the State of New York Department of Environmental Conservation, and that by his/her/ signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public - State of New York

David J. Chiusano
Notary Public, State of New York
No. 01CH5032148
Qualified in Schenectady County
Commission Expires August 22, 2018

COMMUNICATIONS SECTION
U.S. AIR FORCE
WASHINGTON, D.C. 20330

County: Richmond Site No: 243023 Order on Consent Index : D2-0001-98-04

SCHEDULE "A" PROPERTY DESCRIPTION

Property Description
Lot 50, Block 2842
Clifton, Staten Island, New York City
Richmond County, New York

A tract of land known as Lot 50, Block 2842 in Clifton, Staten Island, New York City, Richmond County, New York and being more particularly described as follows:

Commencing at the intersection of the southerly line of Willow Avenue with the westerly line of Bay Street; thence,

- A. Along said southerly line South 59° 23' 13" East 120.00' to the POINT OF BEGINNING of the therein described tract; thence,
 - 1. Along the westerly line of Lots 58 & 65 South 30° 54' 42" East 145.00'; thence,
 - 2. Along a portion of the northerly line of Lot 76 and along the northerly line of Lots 78, 79, 80, 82, 83 and 84 South 59° 23' 13" West 150.75'; thence,
 - 3. Along the easterly line of Lot 30 North 30° 36' 47" West 145.00' to the southerly line of the aforementioned Willow Avenue; thence,
 - 4. Along said southerly line North 59° 23' 13" East 150.00' to the POINT OF BEGINNING of the herein described tract containing 21,804 square feet or 0.501 acres more or less.

162 160

State of New York, County of Richmond, ss:
I, Stephen J. Fiala, County Clerk and Clerk of the
Supreme Court, Richmond County and Recording Officer
for Richmond County do hereby certify that I have
compared this copy with the original filed or recorded in
my office on Feb. 28, 2017
and it is a correct transcript therefrom and of the whole of
the original. Witness my hand and seal of said County and
Court as

S. Fiala
MAR 01 2017
COUNTY CLERK