



NIAGARA COUNTY – STATE OF NEW YORK
JOSEPH A. JASTRZEMSKI – NIAGARA COUNTY CLERK
P.O. BOX 461, LOCKPORT, NEW YORK 14095-0461

COUNTY CLERK'S RECORDING PAGE

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INSTRUMENT #: 2019-05573

Receipt#: 2019413379

Clerk: TH

Rec Date: 04/15/2019 12:45:16 PM

Doc Grp: DEED

Descrip: DEED

Num Pgs: 17

Party1: UNITED STATE OF AMERICA

Party2: TOWN OF NIAGARA

Town: NIAGARA

Recording:

Cover Page	0.00
Recording Fee	0.00
Cultural Ed	0.00
Records Management - Coun	0.00
Records Management - Stat	0.00
RP5217 All others - State	0.00

Sub Total: 0.00

Transfer Tax	
Transfer Tax	0.00

Sub Total: 0.00

Total: 0.00

**** NOTICE: THIS IS NOT A BILL ****

***** Transfer Tax *****

Transfer Tax #: 4507

Exempt

Total: 0.00

Record and Return To:

PAUL/CHICAGO

FOR: DUKEHOLZMAN PHOTIADIS & GRESENS LLP

WARNING***

** Information may change during the verification process and may not be reflected on this page.

Joseph A. Jastrzemski
Niagara County Clerk

**QUITCLAIM DEED
FORMER NIAGARA FALLS ARMY RESERVE CENTER
9400 PORTER ROAD
TOWN OF NIAGARA, NEW YORK**

THIS QUITCLAIM DEED, dated 27th September, 2018, is made and entered into by and between the UNITED STATES OF AMERICA, (hereinafter referred to as the "GRANTOR"), acting by and through the Director of Real Estate, Headquarters, U.S. Army Corps of Engineers, under the authority contained in section 2905(b) of the Defense Base Closure and Realignment Act of 1990, (Pub. L. No 101-510; 10 U.S.C. § 2687 note), as amended, whose mailing address is U.S. Army Corps of Engineers, New York District, ATTN: CENAN-RE-M, 26 Federal Plaza, Room 2007, New York, NY 10278, and the TOWN OF NIAGARA, a municipal corporation existing under the laws of the State of New York, whose mailing address is Town of Niagara, 7105 Lockport Road, Niagara Falls, NY 14305 (hereinafter referred to as the "GRANTEE").

WITNESSETH THAT:

THE GRANTOR, in consideration of \$262,000.00, cash in hand paid, and the agreement of the GRANTEE to perform certain obligations set forth in Article 3 of the agreement between the GRANTOR and GRANTEE effective August 29, 2018, does hereby remise, release, and forever quitclaim unto the GRANTEE, its successors and assigns, all right, title and interest of the GRANTOR in and to all that certain parcel of land situated, lying and being in Niagara Township, Niagara County, New York, containing approximately 19.52 acres, as more particularly described in Exhibit "A," attached hereto and made a part hereof, together with all right, title and interest of the GRANTOR in and to the easement for purposes of ingress and egress across a 0.14 acre portion of a parcel of land situated, lying and being in Niagara Township, Niagara County, New York, and more particularly described in Exhibit "B," attached hereto and made a part hereof (hereinafter referred to as the "Property").

SUBJECT TO all valid and existing restrictions, reservations, covenants, conditions, and easements including, but not limited to, rights-of-way for railroads, highways, pipelines, and public utilities, if any, whether of public record or not.

TO HAVE AND TO HOLD the Property granted herein to the GRANTEE, its successors and assigns, together with all and singular the appurtenances, rights, powers, and privileges thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, or claim whatsoever of the GRANTOR, either in law or in equity, and subject to the reservations, covenants, conditions, and restrictions hereinafter set forth in this deed.

AND IT IS FURTHER AGREED AND UNDERSTOOD by and between the parties hereto that the GRANTEE, by its acceptance of this deed, and as part of the consideration for the conveyance herein, covenants and agrees for itself, its successors, and assigns forever, that this deed is made and accepted upon each of the following covenants, conditions, and restrictions which shall be binding upon and enforceable against the GRANTEE, its successors and assigns in perpetuity by the GRANTOR and other interested parties as may be allowed by law; that the covenants, conditions, and restrictions set forth herein are a binding servitude on the Property and shall be deemed to run with the land in perpetuity; and that the failure to include the covenants, conditions, and restrictions in subsequent conveyances of the Property or portions thereof does not

abrogate the status of the covenants, conditions, and restrictions as binding upon the GRANTOR and the GRANTEE, its successors and assigns:

1. NON-DISCRIMINATION:

The GRANTEE covenants for itself, its successors and assigns and every successor in interest to the Property herein conveyed, or any part thereof, that the said GRANTEE and such successors and assigns shall not discriminate upon the basis of race, creed, color, religion, sex, disability, age, or national origin in the use, occupancy, sale, or lease of the Property, or in their employment practices conducted thereon. This covenant shall not apply, however, to the lease or rental of a room or rooms within a family dwelling unit nor shall it apply with respect to religion to premises used primarily for religious purposes. The GRANTOR shall be deemed a beneficiary of this covenant without regard to whether it remains the owner of any land or interest therein in the locality of the Property herein conveyed and shall have the sole right to enforce this covenant in any court of competent jurisdiction.

2. PROPERTY COVERED BY NOTICE, DESCRIPTION, ACCESS RIGHTS, AND COVENANT MADE PURSUANT TO SECTION 120(h)(3)(A) OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980 (42 U.S.C. § 9620(h)(3)(A)):

For the Property, the GRANTOR provides the following notice, description, and covenant and retains the following access rights:

2a. Notice Pursuant to Sections 120(h)(3)(A)(i)(I) and (II) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §§ 9620(h)(3)(A)(i)(I) and (II)):

Pursuant to sections 120(h)(3)(A)(i)(I) and (II) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §§ 9620(h)(3)(A)(i)(I) and (II)), available information regarding the type, quantity, and location of hazardous substances and the time at which such substances were stored, released, or disposed of, as defined in section 120(h), is provided in Exhibit C, Notification of Hazardous Substance Storage, Release, and Disposal, attached hereto and made a part hereof.

2b. Description of Remedial Action Taken, if Any, Pursuant to Section 120(h)(3)(A)(i)(III) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(i)(III)):

Pursuant to section 120(h)(3)(A)(i)(III) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(i)(III)), a description of the remedial action taken, if any, on the Property is provided in Exhibit C, Notification of Hazardous Substance Storage, Release, and Disposal, attached hereto and made a part hereof.

2c. Covenant Pursuant to Sections 120(h)(3)(A)(ii) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §§ 9620(h)(3)(A)(ii) and (B)):

Pursuant to sections 120(h)(3)(A)(ii) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §§ 9620(h)(3)(A)(ii) and (B)), the United States warrants that –

(a) All remedial action necessary to protect human health and the environment with respect to any hazardous substance identified pursuant to section 120(h)(3)(A)(i)(I) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 remaining on the Property has been taken before the date of this deed, and

(b) Any additional remedial action found to be necessary after the date of this deed shall be conducted by the United States.

2d. Access Rights Pursuant to Section 120(h)(3)(A)(iii) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(iii)):

The United States retains and reserves a perpetual and assignable easement and right of access on, over, and through the Property, to enter upon the Property in any case in which a remedial action or corrective action is found to be necessary on the part of the United States, without regard to whether such remedial action or corrective action is on the Property or on adjoining or nearby lands. Such easement and right of access includes, without limitation, the right to perform any environmental investigation, survey, monitoring, sampling, testing, drilling, boring, coring, testpitting, installing monitoring or pumping wells or other treatment facilities, response action, corrective action, or any other action necessary for the United States to meet its responsibilities under applicable laws and as provided for in this instrument. Such easement and right of access shall be binding on the GRANTEE and its successors and assigns and shall run with the land.

In exercising such easement and right of access, the United States shall provide the GRANTEE or its successors or assigns, as the case may be, with reasonable notice of its intent to enter upon the Property and exercise its rights under this clause, which notice may be severely curtailed or even eliminated in emergency situations. The United States shall use reasonable means to avoid and to minimize interference with the GRANTEE and the GRANTEE's successors' and assigns' quiet enjoyment of the Property. At the completion of work, the work site shall be reasonably restored. Such easement and right of access includes the right to obtain and use utility services, including water, gas, electricity, sewer, and communications services available on the Property at a reasonable charge to the United States. Excluding the reasonable charges for such utility services, no fee, charge, or compensation will be due the GRANTEE, nor its successors and assigns, for the exercise of the easement and right of access hereby retained and reserved by the United States.

In exercising such easement and right of access, neither the GRANTEE nor its successors and assigns, as the case may be, shall have any claim at law or equity against the United States or any officer or employee of the United States based on actions taken by the United States or its officers, employees, agents, contractors of any tier, or servants pursuant to and in accordance with this clause: Provided, however, that nothing in this paragraph shall be

considered as a waiver by the GRANTEE and its successors and assigns of any remedy available to them under the Federal Tort Claims Act.

3. “AS IS” Condition of Property:

A. The GRANTEE acknowledges that it has inspected, or has had the opportunity to inspect, the Property and accepts the condition and state of repair of the Property. The GRANTEE understands and agrees that the Property is conveyed “AS IS” without any representation, warranty, or guaranty by the GRANTOR as to quantity, quality, title, character, condition, size, or kind, or that the same is in a suitable condition or fit to be used for the purposes intended by the GRANTEE, and no claim for allowance or deduction upon such grounds shall be considered.

B. No warranties, either express or implied, are given with regard to the condition of the Property including, without limitation, whether the Property does or does not contain asbestos or lead-based paint. The GRANTEE shall be deemed to have relied solely on its own judgment in assessing the condition of the Property including, without limitation, any asbestos, lead-based paint, or other conditions on the Property. The failure of the GRANTEE to inspect or to exercise due diligence to be fully informed as to the condition of the Property shall not constitute grounds for any claim or demand against the GRANTOR.

C. Nothing in this “AS IS” provision shall be construed to modify or negate the GRANTOR’s obligation under the “Covenant Pursuant to Sections 120(h)(3)(A)(ii) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §§ 9620(h)(3)(A)(ii) and (B))” or any other statutory obligations.

4. Hold Harmless:

A. To the extent authorized by law, the GRANTEE for itself, its successors and assigns, covenants and agree to indemnify and hold harmless the GRANTOR, its officers, agents, and employees from (1) any and all claims, damages, judgments, losses, and costs, including fines and penalties, arising out of the violation of the covenants, conditions, and restrictions in this deed by the GRANTEE, its successors and assigns, and (2) any and all claims, damages, losses, costs, and judgments arising out of, or in any manner predicated upon, exposure to asbestos, lead-based paint, or other condition on any portion of the Property after the date of the conveyance herein.

B. The GRANTEE, for itself, its successors and assigns, covenants and agrees that the GRANTOR shall not be responsible for any costs associated with modification or termination of the covenants, conditions, and restrictions in this deed including, without limitation, any costs associated with additional investigation or remediation of asbestos, lead-based paint, or other condition on any portion of the Property.

C. Nothing in this “Hold Harmless” provision shall be construed to modify or negate the GRANTOR’s obligation under the “Covenant Pursuant to Sections 120(h)(3)(A)(ii) and (B) of

the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §§ 9620(h)(3)(A)(ii) and (B))” or any other statutory obligations.

5. Post-Transfer Discovery of Contamination:

A. If a release or threatened release of a hazardous substance is discovered on the Property after the date of the conveyance herein, the GRANTEE, its successors or assigns shall be responsible for such newly discovered release or threatened release of a hazardous substance unless the GRANTEE, or its successors or assigns is able to demonstrate that such release or threatened release of a hazardous substance was due to the GRANTOR’s activities, use, or ownership of the Property. If the GRANTEE, or its successors or assigns believe the newly discovered hazardous substance is due to the GRANTOR’s activities, use, or ownership of the Property, the GRANTEE, or its successors or assigns shall immediately secure the site and notify the GRANTOR of the existence of the release or threatened release of the hazardous substance and the GRANTEE, or its successors or assigns shall not further disturb or allow the disturbance of such hazardous substance without the prior written permission of the GRANTOR.

B. The GRANTEE, for itself, its successors and assigns, as part of the consideration for the conveyance of the Property, hereby releases the GRANTOR from any liability or responsibility for any claims arising solely out of the release or threatened release of any hazardous substance on the Property occurring after the date of the conveyance herein where such hazardous substance was placed on the Property by the GRANTEE, or its successors, assigns, employees, invitees, agents, contractors, or any person other than the GRANTOR after the date of the conveyance herein. This “Post-Transfer Discovery of Contamination” provision shall not affect the GRANTOR’s responsibilities to conduct response actions or corrective actions that are required by applicable laws, rules and regulations, including the GRANTOR’s obligation under the “Covenant Pursuant to Sections 120(h)(3)(A)(ii) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(ii) and (B)).”

6. Environmental Protection Provisions:

The GRANTEE shall neither transfer the Property, lease the Property, nor grant any interest, privilege, or license whatsoever in connection with the Property without including the environmental protection provisions set forth in Exhibit “D,” attached hereto and made a part hereof, and shall require the said provisions in all subsequent deeds, easements, transfers, leases, or grant of any interest, privilege, or license in, of, on, or to the Property or any portion thereof.

7. Anti-Deficiency Act:

The GRANTOR’s obligation to pay or reimburse any money under this deed is subject to the availability of funds appropriated for this purpose to the Department of the Army and nothing in this deed shall be interpreted to require obligations or payments by the GRANTOR in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341.

8. No Waiver:

The failure of the GRANTOR to insist in any one or more instances upon timely or complete performance of any obligation of the GRANTEE, or its successors or assigns required by the covenants, conditions, or restrictions shall not be construed as a waiver or a relinquishment of the GRANTOR's right to future performance of any such obligation of the GRANTEE or its successors or assigns in strict accordance with the said covenants, conditions, and restrictions and all such obligations of the GRANTEE, its successors and assigns shall continue in full force and effect.

IN WITNESS WHEREOF, the GRANTOR has caused this deed to be duly executed in its name by the Director of Real Estate, Headquarters, U.S. Army Corps of Engineers this 27th day of September, 2018.

UNITED STATES OF AMERICA

By: _____

Brenda M. Johnson-Turner
Director of Real Estate
Headquarters, U.S. Army Corps of Engineers

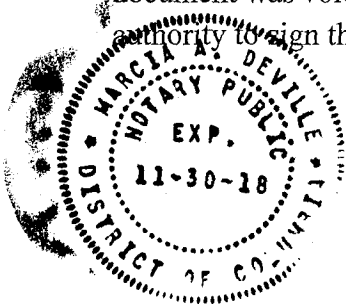
NOTARIAL CERTIFICATE

DISTRICT OF COLUMBIA)

) ss

CITY OF WASHINGTON)

I, Marcia A. Deville, a Notary Public in and for the District of Columbia, do hereby certify that on this the 27th day of September, 2018, Brenda M. Johnson-Turner, Director of Real Estate, Headquarters, U. S. Army Corps of Engineers, known to me or proven through satisfactory evidence of identity to be the person whose name is subscribed to the foregoing document, appeared in person and acknowledged before me that the signature on the document was voluntarily affixed by her for the purposes therein stated and that she had due authority to sign the document in the capacity therein stated.



Marcia A. Deville
Notary Public

ACCEPTANCE OF CONVEYANCE

The GRANTEE, acting by and through its Supervisor, hereby accepts the conveyance herein subject to all of the notices, covenants, conditions, restrictions, and reservations set forth in this deed, this 17 day of September, 2018.

TOWN OF NIAGARA

By: 

Lee Wallace
Supervisor

ACKNOWLEDGEMENT

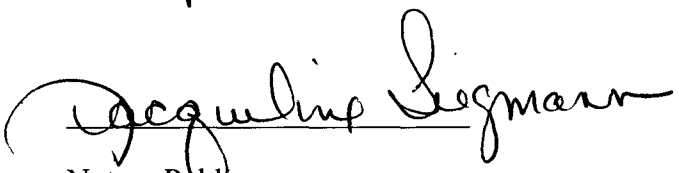
STATE OF NEW YORK)

) ss:

COUNTY OF NIAGARA)

I, Jacqueline Siegmann, a notary public, in and for the State of New York, County of Niagara, do hereby certify that Lee Wallace, Supervisor, Town of Niagara, New York, known to me or proven through satisfactory evidence of identity to be the person whose name is subscribed to the foregoing document, appeared in person and acknowledged before me that the signature on the document was voluntarily affixed by him for the purposes therein stated and that he had due authority to sign the document in the capacity therein stated.

Given under my hand and seal this 17 day of September, 2018.


Notary Public

My commission expires: 7/23/19

JACQUELINE SIEGMANN
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN NIAGARA COUNTY
NO. 0156171343
MY COMMISSION EXPIRES JULY 23, 2019

EXHIBIT "A"

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Niagara, County of Niagara and State of New York, being part of Lots 2 and 6, Township 13, Range 9 of the Holland Land Company's Survey, being more particularly bounded and described as follows:

BEGINNING AT A POINT in the northerly line of Porter Road, New York State Route 182 (being 100 feet wide), at the southwesterly corner of a parcel of land conveyed to The United States of America by a deed filed in the Niagara County Clerk's Office in Liber 1198 of Deeds at page 340, said point also being a distance of 176.25 feet northwesterly of the intersection of the west line of lot 2 and said northerly line of Porter Road, New York State Route 182;

Thence North $05^{\circ}04'44''$ East along said lands conveyed to The United States of America, a distance of 155.91 feet to an angle point in the southerly line of lands conveyed to the Niagara Frontier Transportation Authority by a deed filed in the Niagara County Clerk's Office in Liber 1566 of Deeds at page 795;

Thence South $87^{\circ}03'30''$ East along the southerly line of said lands conveyed to the Niagara Frontier Transportation Authority by Liber 1566 of Deeds at page 795, a distance of 149.79 feet to a point in the west line of lot 2 and the southeasterly corner of said parcel conveyed to the Niagara Frontier Transportation Authority;

Thence North $00^{\circ}23'47''$ West along the west line of lot 2 and the easterly line of said lands conveyed to the Niagara Frontier Transportation Authority, a distance of 316.83 feet to the northwesterly corner of lands conveyed to The United States of America by a deed filed in the Niagara County Clerk's Office in Liber 674 of Deeds at page 492;

Thence North $89^{\circ}36'10''$ East along a line parallel with the north line of lot 2 and along the northerly line of said lands conveyed to The United States of America by Liber 674 of Deeds at page 492, a distance of 1110.00 feet to the northeasterly corner of said lands conveyed to The United States of America by Liber 674 of Deeds at page 492;

Thence South $00^{\circ}23'47''$ East along a line parallel with the west line of lot 2 and along the easterly line of said lands conveyed to The United States of America by Liber 674 of Deeds at page 492, a distance of 940.00 feet to a point in the northerly line of Porter Road, New York State Route 182 and the southeasterly corner of said lands conveyed to The United States of America by Liber 674 of Deeds at page 492;

Thence northwesterly along the northerly line of Porter Road, New York State Route 182, being a non-tangent curve, concave to the north, having a radius of 2815.00 feet, a central angle of $05^{\circ}44'32''$ and a chord of 282.00 feet bearing North $72^{\circ}15'01''$ West, a distance of 282.12 feet to the point of tangency;

Thence North 69°16'17" West continuing along the northerly line of Porter Road, New York State Route 182, a distance of 1078.94 feet to the POINT OF BEGINNING, containing **19.52** Acres of land, more or less.

STAMP
ADDED TO
CAPTURE
IMAGE

EXHIBIT "B"

PART OF THE 2.15 ACRE TRACT OR PARCEL OF LAND, situate in the Town of Niagara, County of Niagara and State of New York, conveyed by the United States of America by deed dated January 15, 1975, to the Niagara Frontier Transportation Authority, and recorded in the Niagara County Clerk's Office in Liber 1566 of Deeds at page 795, bounded and described as follows:

BEGINNING at a point in the east line of Lot No. 6, as described in the aforesaid 2.15 acre parcel of land, said point being distant northerly 275 feet from the southeast corner of said parcel; thence west forming an interior angle of 90° to the right, 20 feet to a point; thence north forming an interior angle of 90° to the right, 160 feet to a point; thence west forming an angle of $89^{\circ} 04'$ to the left, 130 feet to a point; thence northerly forming an interior angle of $89^{\circ} 04'$ to the right, 20 feet to a point in the northerly boundary of the aforesaid parcel; thence east along said northerly boundary forming an interior angle of $90^{\circ} 56'$ to the right, 150 feet to the northeast boundary corner of said 2.15 acre parcel of land; thence south along the easterly boundary of said parcel forming an interior angle of $89^{\circ} 03' 42''$, 180 feet to the point of beginning.

CONTAINING in all 0.14 acres of land, more or less.

EXHIBIT "C"
**NOTIFICATION OF HAZARDOUS SUBSTANCE STORAGE,
RELEASE, AND DISPOSAL***

Location	Name of Hazardous Substance	Date of Storage, Release, or Disposal	Remedial Actions
East of Building 22	PCBs	1991	Complete. In 1991, a PCB-contaminated transformer fell and broke over a storm sewer drain, east of Building 22. Oil containing 250 ppm PCB spilled on the pavement and into the drain. Surface paving materials, soils, and storm drain materials were remediated after the spill. The New York State Department of Environmental Conservation (NYSDEC) provided a letter, dated 19 February 1992, to confirm that no further action was necessary for the spill. The letter also confirmed that the NYSDEC incident file for this spill, Spill Number 9106446, was closed.
Eastern Portion of the Property** Former Building 2, Former Fire Protection Main and Reservoir Area, 24-Inch Storm Sewer Pipe, and Outfall 5	PCBs	2008	Complete. On June 24, 2008, a yellow substance was identified in the drainage swale along Porter Road, near the Property's southeast storm water discharge outlet, Outfall 5. The released material was found to contain PCBs and NYSDEC established the release as Spill Number 0803478. Delineation and investigative activities identified PCBs in soil samples at a maximum concentration of 1,060 parts per million (ppm). Approximately 134 tons of PCB-impact soils were excavated from the outfall and drainage swale to meet the clean-up level of 1 ppm. Subsequent investigations in the eastern portion of the Property led to the removal of an additional 40 tons of soil and 2,000 gallons of groundwater from the vicinity of the 24-inch discharge pipe that runs along the eastern Property boundary and empties at Outfall 5. All remedial actions have been completed and NYSDEC granted closure of the spill incident on 17 May 2012. A No Further Action Record of

Location	Name of Hazardous Substance	Date of Storage, Release, or Disposal	Remedial Actions
			Decision (ROD) for the area of concern was signed on 3 April 2015.
<p>* The information contained in this notice is required under the authority of regulations promulgated under section 120(h) of the Comprehensive Environmental Response, Liability, and Compensation Act (CERCLA or 'Superfund') 42 U.S.C. §9620(h). This table provides information on the storage of hazardous substances for one year or more in quantities greater than or equal to 1,000 kilograms or the hazardous substance's CERCLA reportable quantity (whichever is greater). In addition, it provides information on the known release of hazardous substances in quantities greater than or equal to the substances CERCLA reportable quantity. See 40 CFR Part 373.</p> <p>** A layout of the location of Former Building 2, the Former Fire Protection Main and Reservoir Area, the 24-Inch Storm Sewer Pipe, and Outfall 5 is shown below.</p>			

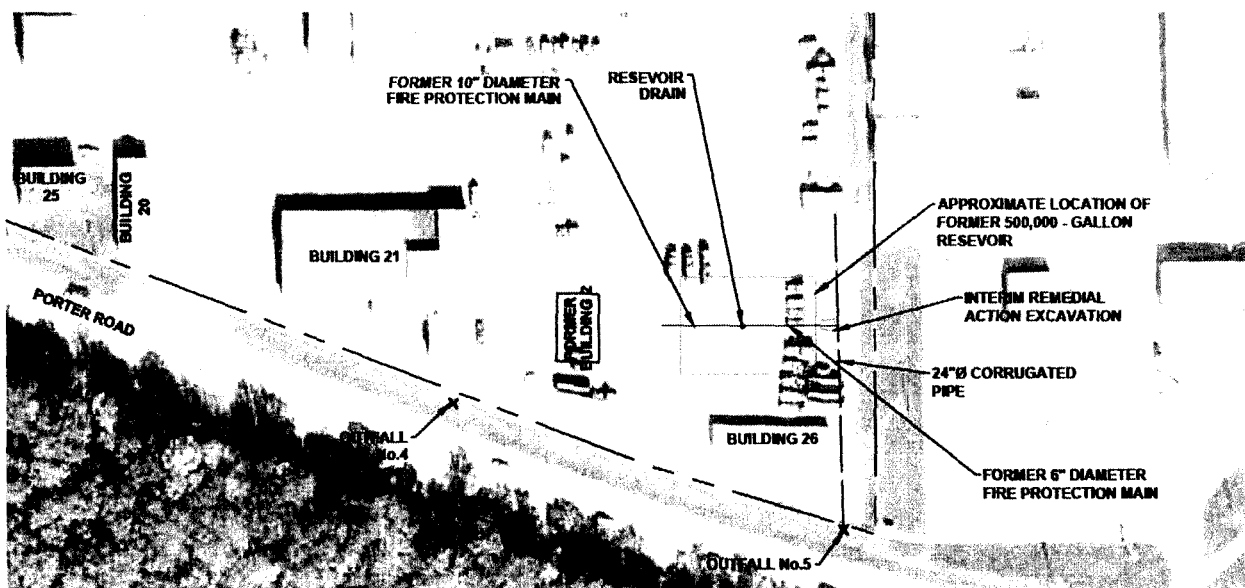


EXHIBIT "D"

ENVIRONMENTAL PROTECTION PROVISIONS

1. LAND USE RESTRICTION

A. The United States Department of the Army has undertaken careful environmental study of the Property and concluded that the land use restriction set forth below is required to ensure protection of human health and the environment. The GRANTEE, its successors or assigns, shall not undertake nor allow any activity on or use of the Property that would violate the land use restriction contained herein:

Residential Use Restriction. The GRANTEE, its successors and assigns, shall not use the property for residential purposes. For purposes of this provision, residential use includes, but is not limited to, single family or multi-family residences; pre-school and child care facilities; playgrounds whether or not related to non-residential facilities; nursing home or assisted living facilities; and any type of educational facility for children/young adults in grades kindergarten through 12.

B. Modifying Restrictions. Nothing contained herein shall preclude the GRANTEE, its successors or assigns, from undertaking, in accordance with applicable laws and regulations and without any cost to the GRANTOR, such additional action necessary to allow for other less restrictive uses of the Property. Prior to such use of the Property, GRANTEE shall consult with and obtain the approval of the GRANTOR, and, the New York State Department of Environmental Conservation (NYSDEC). Upon the GRANTEE's obtaining the approval of the GRANTOR and NYSDEC, the GRANTOR agrees to record an amendment hereto. This recordation shall be the responsibility of the GRANTEE and at no additional cost to the GRANTOR.

C. Submissions. The GRANTEE, its successors and assigns, shall submit any requests for modifications to the above restrictions to GRANTOR and NYSDEC, by first class mail, postage prepaid, addressed as follows:

GRANTOR – U.S. Army Engineer District, New York
Attention: CENAN-RE-M
26 Federal Plaza, Room 2007
New York, NY 10278.

NYSDEC – New York State Department of Environmental Conservation
Division of Environmental Remediation, Remedial Bureau E,
625 Broadway, 12th Floor
Albany, NY 12233-7015

2. NOTICE OF THE PRESENCE OF ASBESTOS AND COVENANT

A. The GRANTEE is hereby informed and does acknowledge that friable and non-friable asbestos or asbestos containing material "ACM" has been found on the Property. The Property may also contain improvements, such as buildings, facilities, equipment, and pipelines, above and below the ground, that contain friable and non-friable asbestos or ACM. The Occupational Safety and Health Administration (OSHA) and the Environmental Protection Agency have determined that unprotected or unregulated exposure to airborne asbestos fibers increases the risk of asbestos-related diseases, including certain cancers that can result in disability or death.

B. The following buildings on the Property have been determined to contain friable asbestos: 4, 19, and 22. The GRANTEE agrees to undertake any and all asbestos abatement or remediation in the aforementioned buildings that may be required under applicable law or regulation at no expense to the GRANTOR. The GRANTOR has agreed to transfer said buildings to the GRANTEE, prior to remediation or abatement of asbestos hazards, in reliance upon the GRANTEE's express representation and covenant to perform the required asbestos abatement or remediation of these buildings.

C. The GRANTEE covenants and agrees that its use and occupancy of the Property will be in compliance with all applicable laws relating to asbestos. The GRANTEE agrees to be responsible for any future remediation or abatement of asbestos found to be necessary on the Property to include ACM in or on buried pipelines that may be required under applicable law or regulation.

D. The GRANTEE acknowledges that it has inspected or has had the opportunity to inspect the Property as to its asbestos and ACM condition and any hazardous or environmental conditions relating thereto. The GRANTEE shall be deemed to have relied solely on its own judgment in assessing the overall condition of all or any portion of the Property, including, without limitation, any asbestos or ACM hazards or concerns.

3. NOTICE OF THE PRESENCE OF LEAD-BASED PAINT (LBP) AND COVENANT AGAINST THE USE OF THE PROPERTY FOR RESIDENTIAL PURPOSE

A. The GRANTEE is hereby informed and does acknowledge that all buildings on the Property, which were constructed or rehabilitated prior to 1978, are presumed to contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that there is a risk of exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning.

B. The GRANTEE covenants and agrees that it shall not permit the occupancy or use of any buildings or structures on the Property as residential property, as defined under 24 Code of Federal Regulations Part 35, without complying with this section and all applicable federal, state, and local laws and regulations pertaining to lead-based paint and/or lead-based paint hazards. Prior to permitting the occupancy of the Property where its use subsequent to sale is intended for residential habitation, the GRANTEE specifically agrees to perform, at its sole expense, the Army's abatement requirements under Title X of the Housing and Community Development Act of 1992 (Residential Lead-Based Paint Hazard Reduction Act of 1992).

C. The GRANTEE acknowledges that it has inspected or has had the opportunity to inspect the Property as to its lead-based paint content and condition and any hazardous or environmental conditions relating thereto. The GRANTEE shall be deemed to have relied solely on its own judgment in assessing the overall condition of all or any portion of the Property, including, without limitation, any lead-based paint hazards or concerns.

4. PESTICIDE NOTICE AND COVENANT

A. The GRANTEE is hereby notified and acknowledges that registered pesticides have been applied to the Property conveyed herein and may continue to be present thereon. The GRANTOR and GRANTEE know of no use of any registered pesticide in a manner (1) inconsistent with its labeling or with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)(7 U.S.C. § 136, et seq.) and other applicable laws and regulations, or (2) not in accordance with its intended purpose.

B. The GRANTEE covenants and agrees that if the GRANTEE takes any action with regard to the Property, including demolition of structures or any disturbance or removal of soil that may expose, or cause a release of, a threatened release of, or an exposure to, any such pesticide, the GRANTEE assumes all responsibility and liability therefor.