## NYC DEPARTMENT OF FINANCE OFFICE OF THE CITY REGISTER

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Affidavit Fee:



City Register Official Signature

#### RECORDING AND ENDORSEMENT COVER PAGE PAGE 1 OF 10 Document ID: 2015082001099001 Document Date: 08-12-2015 Preparation Date: 09-04-2015 Document Type: EASEMENT Document Page Count: 9 PRESENTER: RETURN TO: LT SERVICE CORP. - PICK UP E.W. (LT12156) 521 FIFTH AVENUE, 23RD FLOOR MICHAEL MCDERMOTT, ESQ. NYC SCHOOL CONSTRÚCTIÔN AUTHORITY NEW YORK, NY 10175 30-30 THOMSON AVENUE 212-599-1300 LONG ISLAND CITY, NY 11101 NYCID@LEXTERRAE.COM PROPERTY DATA Borough Block Lot Address IInit. BRONX 4341 13 2385 OLINVILLE AVENUE Entire Lot **Property Type:** OTHER **CROSS REFERENCE DATA** Year Reel Page or DocumentlD or File Number **PARTIES** GRANTOR/SELLER: GRANTEE/BUYER: NYC DEPARTMENT OF EDUCATION C/O COMMISSIONER OF THE DEPARTMENT OF NYC SCHOOL CONSTRUCTION AUTHORITY, 30-30 ENVIRONMENTAL CONSERVATION, 625 THOMSON AVENUE **BROADWAY** LONG ISLAND CITY, NY 11101 ALBANY, NY 12233 FEES AND TAXES Mortgage: Filing Fee: Mortgage Amount: 0.00 0.00 Taxable Mortgage Amount: NYC Real Property Transfer Tax: \$ 0.00 Exemption: 0.00 TAXES: County (Basic): \$ 0.00 NYS Real Estate Transfer Tax: City (Additional): \$ 0.00 0.00 Spec (Additional): \$ 0.00 RECORDED OR FILED IN THE OFFICE TASF: \$ 0.00 OF THE CITY REGISTER OF THE MTA: \$ 0.00 CITY OF NEW YORK NYCTA: \$ 0.00 Recorded/Filed 09-04-2015 16:16 Additional MRT: \$ 0.00 City Register File No.(CRFN): TOTAL: \$ 0.00 2015000311613 Recording Fee: \$ **EXEMPT**

0.00

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

THIS INDENTURE made this 12th day of Acct, 20/5 between Owner(s) City of New York c/o New York City School Construction Authority, having an office at 30-30 Thomson Avenue, Long Island City, New York 11101, County of Queens, 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 650 Waring Avenue a/k/a 2385 Olinville Avenue in the City of New York, County of Bronx 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 4341 Lot 13, being the same as that property conveyed to Grantor as to part of Lot 13 by Letters Patent from the State of New York, dated June 4, 1928 and recorded in the Bronx County Clerk in Liber 701, Page 240, as to the balance of Lot 13 by Condemnation Title vested September 22, 1927. The property subject to this Environmental Easement (the "Controlled Property") comprises approximately 1.81 +/- acres, and is hereinafter more fully described in the Land Title Survey dated May 5, 2015 prepared by Richard Tom, PLS for Perfect Point Professional Land Surveying, 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 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: R2-0801-13-01, 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. <u>Purposes</u>. 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. <u>Institutional and Engineering Controls</u>. 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:

Restricted Residential as described in 6 NYCRR Part 375-1.8(g)(2)(ii), 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 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 purposes as defined in 6NYCRR 375-1.8(g)(2)(i), 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 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 b 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. <u>Right to Enter and Inspect</u>. 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. <u>Reserved Grantor's Rights</u>. 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

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. <u>Notice</u>. 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: 203068 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.

- 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. <u>Amendment</u>. 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. <u>Extinguishment.</u> 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. <u>Joint Obligation</u>. If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.

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

By:

Ryss J. Holden
Executive Vice President
& General Counsel

Title:

Date: Automatical Authority:

Grantor's Acknowledgment

STATE OF NEW YORK ) ss:
COUNTY OF Queens )

Notary Public - State of New York

JENSEN AMBACHEN
MOTARY PUBLIC, STATE OF NEW YORK
NO. 02AM8155485
OUALIFIED IN NASSAU COUNTY

SEAL

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

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

Notary Public - State of New York

PATRICK EUGENE FOSTER
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN KINGS COUNTY
NO. 02F06278032
COMMISSION EXPIRES 03/18/20/2

#### **SCHEDULE "A" PROPERTY DESCRIPTION**

#### LEGAL DESCRIPTION OF PROPERTY SUBJECT TO EASEMENT

ADDRESS: 650 Waring Avenue, Bronx, New York

TAX MAP: Block 4341, Lot 13

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the County of Bronx, City and State of New York, bounded and described as follows:

BEGINNING at the corner formed by the intersection of the southerly side of Waring Avenue with the westerly side of Olinville Avenue;

RUNNING THENCE southerly along the westerly side of Olinville Avenue, 396.24 feet;

THENCE westerly at right angles to the westerly side of Olinville Avenue, 200 feet to the easterly side of Barker Avenue;

THENCE northerly along the easterly side of Barker Avenue, 396.24 feet to the southerly side of Waring Avenue; and

THENCE easterly along the southerly side of Waring Avenue, 200 feet to the point of place of BEGINNING.

Comprising of an area approximately 78,848 square feet or 1.8101 acres more or less.

NYC DEPARTMENT OF FINANCE OFFICE OF THE CITY REGISTER



SUPPORTING DOCUMENT COVER PAGE

PAGE 1 OF 1

Document ID: 2015082001099001 Document Type: EASEMENT

Document Date: 08-12-2015

Preparation Date: 09-04-2015

ASSOCIATED TAX FORM ID: 2015062300481

SUPPORTING DOCUMENTS SUBMITTED:

Page Count

**RP - 5217 REAL PROPERTY TRANSFER REPORT** 

2

## CITY KEGISTER

FOR CITY USE ONLY	. (E)					
C1. County Code C2. Date Deed Month Day Year	REAL PROPERTY TRANSFER REPORT  STATE OF NEW YORK STATE BOARD OF REAL PROPERTY SERVICES					
C3. Book C4. Page OR C6. CRFN I	RP - 5217NYC					
PROPERTYINFORMATION						
PROPERTY INFORMATION						
1. Property 2385 OLINVILLE AVENUE STREET NUMBER STREET NAME	BRONX 10467 BOROUGH ZIPCODE					
2. Buyer COMMISSIONER OF THE DEPARTMENT OF LAST NAME / COMPANY	FIRST NAME					
LAST NAME / COMPANY	FIRST NAME					
3. Tax Indicate where future Tax Bills are to be sent Billing if other than buyer address (at bottom of form) Address  LAST NAME / COMPANY	FIRST NAME					
STREET NUMBER AND STREET NAME CITY OF	R TOWN STATE ZIP CODE					
4. Indicate the number of Assessment Roll parcels transferred on the deed # # of Parcels OR	Part of a Parcel  4A. Planning Board Approval - N/A for NYC  4B. Agricultural District Notice - N/A for NYC					
5. Deed Property X OR ACRES	Check the boxes below as they apply:  6. Ownership Type is Condominium  7. New Construction on Vacant Land					
8. Seller NYC DEPARTMENT OF EDUCATION C/O LAST NAME / COMPANY	FIRST NAME					
LASY NAME / COMPANY	J. FIRSY NAME					
9. Check the box below which most accurately describes the use of the property	at the time of sale:					
A One Family Residential C Residential Vacant Land E Non-Residential Vacant Land F	Commercial G Entertainment / Amusement I Industrial Apartment H Community Service J Public Service					
SALE INFORMATION	14. Check one or more of these conditions as applicable to transfer:					
10. Sale Contract Date 6 / 30 / 2015   Month Day Year	A Sale Between Relatives or Former Relatives Sale Between Related Companies or Partners in Business					
11. Date of Sale / Transfer  6 / 30 / 2015   Month Day Year	C One of the Buyers is also a Seller D  Buyer or Seller is Government Agency or Lending Institution E Deed Type not Warranty or Bargain and Sale (Specify Balow)					
12. Full Sale Price \$ 0	F Sale of Fractional or Less than Fee Interest ( Specify Below ) G Significant Change in Property Between Taxable Status and Sale Dates					
(Full Sale Price is the total amount paid for the property including personal property.  This payment may be in the form of cash, other property or goods, or the assumption of mortgages or other obligations.) Please round to the nearest whole dollar amount.	H Sale of Business is Included in Sale Price  Of I Other Unusual Factors Affecting Sale Price ( Specify Below )  None					
13. Indicate the value of personal property included in the sale						
ASSESSMENT INFORMATION - Data should reflect the latest Final Assessment	ent Roll and Tax Bill					
15. Building Class W, 1 16. Total Assessed Value (of all parcels in transfer) 6 7 2 5 1 3 9						
17. Borough, Block and Lot / Roll identifier(s) ( if more than three, attach sheet with additional identifier(s) )						
BRONX 4341 13						

FOR CITY USE ONLY C1. County Code C2. Date Deed Recorded Month Day Year C3. Book C4. Page C5. CRFN	REAL PROPERTY TRANSFER REPORT  STATE OF NEW YORK STATE BOARD OF REAL PROPERTY SERVICES  RP - 5217NYC
PROPERTYINFORMATION	
1. Property 2385 OLINVILLE AVENUE STREET NUMBER STREET NAME	BRONX 10467
2. Buyer Name COMMISSIONER OF THE DEPARTMENT OF	FIRST NAME
L	
3. Tax Indicate where future Tax Bills are to be sent Billing if other than buyer address (at bottom of form) Address  LAST NAME / COMPANY	FIRST NAME  FIRST NAME
4. Indicate the number of Assessment Roll parcels transferred on the deed 1 # of Parcels OR	Part of a Parcel  4A. Planning Board Approval - N/A for NYC  4B. Agricultural District Notice - N/A for NYC
5. Deed Property Size FRONT FEET X DEFTH OR ACRES	Check the boxes below as they apply:  8. Ownership Type is Condominium  7. New Construction on Vacant Land
8. Seller NYC DEPARTMENT OF EDUCATION C/O Name LAST NAME / COMPANY	FIRST NAME
LAST NAME / COMPANY	FIRST NAME
Check the box below which most accurately describes the use of the property      Check the box below which most accurately describes the use of the property      Residential Vacant Land E     Non-Residential Vacant Land F	ty at the time of sale:  Commercial G Entertainment / Amusement I Industrial Apartment H Community Service J Public Service
SALE INFORMATION	14. Check one or more of these conditions as applicable to transfer:
10. Sale Contract Date 6 / 30 / 2015   Month Day Year   11. Date of Sale / Transfer 8 / 12 / 2015   Month Day Year	A Sale Between Relatives or Former Relatives B Sale Between Related Companies or Partners in Business C One of the Buyers is also a Seller Buyer or Seller is Government Agency or Lending Institution E Deed Type not Warranty or Bergain and Sale (Specify Below)
12. Full Sale Price \$  (Full Sale Price is the total amount paid for the property including personal property. This payment may be in the form of cash, other property or goods, or the assumption mortgages or other obligations.) Please round to the nearest whole dollar amount.	Sale of Business is Included in Sale Price  Other Unusual Factors Affecting Sale Price (Specify Below)
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17. Borough, Block and Lot / Roll Identifier(s) ( If more than three, attach she	et with additional identifier(s) )
RRONY 4341-13	100

CERTIFICATION	i certify that all of the understand that the n the making and filing	naking of any wil	iful false statement o	form are true and correct (to the final fact herein will subject the first fact herein will subject the first fact herein will subject the fact the fac	e best of my knowledge and bellsf) and set me to the provisions of the penal law relative to	
andew Auglier 18-14-15				BUYER'S ATTORNEY		
BUYER SHOUTURE ENVIRONMENTAL	CONSERVATION 6	25 BROADWA	DATE	LAST NAME	FIRST NAME	
STREET NUMBER	STREET NAME WITE	(SALE)		AREA CODE TE	LEPHONE NUMBER	
ALB	ANY	NY	12233	Andre	SELDER JUNE 7-29-15	
CITY OR TOWN		STATE	ZIP CODE	SELLER SIGNATURE	DATE	