

May 3, 2023

Michael MacCabe, PE  
Senior Environmental Engineer  
NYSDEC  
Division of Environmental Remediation  
625 Broadway  
Albany, New York 12233-7016

**Re: Site Management Plan – Periodic Review Report  
Reporting Period – April 2022 to April 2023  
416 Kent Avenue  
Brooklyn, New York  
Brownfield Cleanup Program (BCP) Site No. C224200  
Langan Project No. 170332902**

Dear Mr. MacCabe:

This Periodic Review Report (PRR) documents ongoing compliance with the November 2018 Site Management Plan (SMP) for the above-referenced site. The SMP was approved by the New York State Department of Environmental Conservation (NYSDEC) on November 28, 2018. The site is located at 416 Kent Avenue in the Williamsburg neighborhood of Brooklyn, New York (the site). The site is also identified on the Borough of Brooklyn Tax Map as Tax Block 2128, Lot 5. A site location map is provided as Figure 1. A site layout map is provided as Figure 2. The site was remediated in accordance with the June 2015 Decision Document, the NYSDEC-approved March 2015 Remedial Action Work Plan (RAWP) and the January 15, 2016 RAWP Addendum No. 1. The remedy met Track 4 Restricted Residential remediation standards and allowed restricted residential, commercial, and industrial uses. A Final Engineering Report (FER) was prepared on November 15, 2018 and a Certificate of Completion (CoC) was issued in December 2018. Institutional controls and engineering controls (IC/EC) are a component of the site remedy. The EC/ICs are required to be maintained and monitored in accordance with the SMP.

## **SITE BACKGROUND**

The site spans approximately 1.056 acres and is bound by a two-story restaurant with a parking lot to the north, Kent Avenue to the east, a multi-story residential and commercial development (NYSDEC BCP No. C224201) to the south, and the East River to the west. The site is located in a neighborhood primarily characterized by multi-story industrial, commercial, and residential buildings. Available records indicate that the site was developed as early as 1887. Past uses of

the site include a ferry terminal (circa 1887-1904), vacant buildings (circa 1918), a steel and tube corporation (circa 1928), and parking (circa 1935-2014).

Remediation was completed between December 1, 2015 and November 6, 2018 and included:

- Removal of five 4,000-gallon diesel underground storage tanks (USTs)
- Removal of historic fill and soil exceeding the NYSDEC Title 6 of the Official Compilation of New York Codes, Rules and Regulations (NYCRR) Part 375 Restricted Residential Use (RRU) Soil Cleanup Objectives (SCOs)
- Backfilling of excavated areas to development grade
- Installation of a composite cover system, an EC
- Installation of a sub-membrane depressurization (SMD) system with a vapor barrier membrane beneath a part of the on-site building, an EC
- Implementation of long-term IC/ECs via an SMP and Environmental Easement (EE)

## **SMP COMPLIANCE**

### *Institutional Controls*

The ICs are documented in an EE (Appendix A) and include the following:

- A requirement for the remedial party or site owner to complete and submit to the Department a periodic certification of IC/ECs in accordance with Part 375-1.8(h)(3);
- Use and development of the controlled property for restricted residential, commercial and industrial uses as defined in Part 375-1.8(g) and in accordance with applicable local zoning;
- Prohibition of vegetable gardens and farming in residual site soil;
- Restriction of groundwater use as a source of potable or process water, without the necessary water quality treatment as determined by New York State Department of Health (NYSDOH); and
- Required compliance with the NYSDEC-approved SMP.

The site is currently in compliance with the ICs documented in the EE and SMP as evidenced by observations made during the PRR site visit on April 6, 2023.

### *Engineering Controls*

ECs for the site consist of a composite cover system and an SMD system with a vapor barrier membrane within a portion of the site building. Both are discussed in greater detail below.

#### *Composite Cover System*

At the time of the CoC, the composite cover system consisted of the reinforced concrete building slab, a temporary asphalt roadway, concrete covered walkways, and at least two feet of clean

cover soil meeting the lower of RRU and Protection of Groundwater (PGW) SCOs in landscaped areas.

The composite cover system was breached three times following issuance of the CoC. Following completion of two incidents of intrusive activities, the composite cover system was restored. Additional details on these two breaches can be found in the March 6, 2020 PRR. Additional details on the third breach can be found in the May 3, 2022 PRR.

Langan completed a site inspection of the composite cover system on April 6, 2023. Photographs of site conditions during the site inspection are provided as Appendix B. The reinforced concrete slab and concrete walls (visually observable portions of the composite cover system) within the cellar office and ventilated parking garage were in good condition with no water damage or other indicators of slab failure. Paved driveways, walkways, and landscaped planters appeared intact. No breaches in the composite cover system were observed. According to building management, no intrusive activities were conducted during the reporting period. The composite cover system was observed to be intact and in compliance with the SMP.

#### Sub-Membrane Depressurization System

As an element of the site remedy, vapor mitigation is provided through operation of an SMD system installed beneath a 700-square-foot commercial space located in the southwest part of the site building. An actively ventilated parking garage consistent with New York City Building Code exists across the balance of the building footprint. The vapor barrier membrane was installed beneath the building slab (included as a component of the SMD) and around the sidewalls of the foundation. SMD system as-built drawings are provided as Appendix C.

Although the SMD system may be operated as a passive system based on soil vapor conditions documented in April 2020, the site owner has elected to run the SMD system as an active system. At the time of the PRR inspection, the SMD system was active and the blower was documented to maintain a flow rate of 56.76 cubic feet per minute (CFM), consistent with the designed flow rate. The ventilation system in the parking garage was also active at the time of inspection.

Photographs of site conditions during the site inspection are provided as Appendix C. The completed IC/ECs Certificate Forms are provided as Appendix D. The completed site inspection forms are included as Appendix E.

## RECOMMENDATIONS

The IC/ECs continue to function as designed and in compliance with the SMP. No changes to the remedy or to the SMP are recommended at this time.

## CLOSING

The undersigned certifies that based on the annual PRR activities described herein the site is compliant with the SMP. Should you have any questions, please contact me at 212-479-5427.

Sincerely,

**Langan Engineering, Environmental, Surveying,  
Landscape Architecture and Geology, D.P.C.**



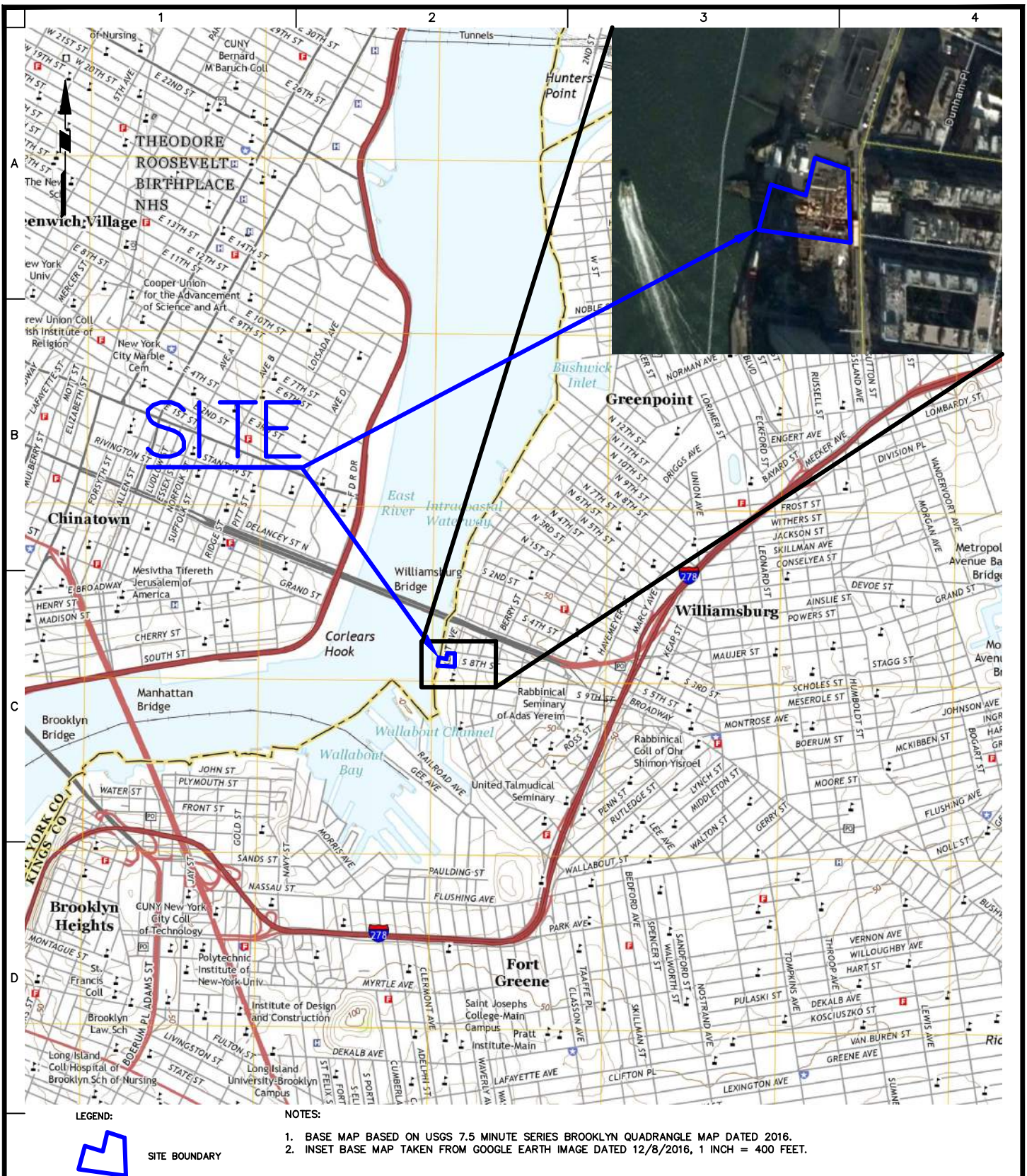
Jason J. Hayes, P.E.  
Principal/Vice President

Enclosure(s):     Figure 1 – Site Location Map  
                         Figure 2 – Site Layout Map  
                         Appendix A – Executed Environmental Easement  
                         Appendix B – Photographic Documentation  
                         Appendix C – SMD System As-Builts  
                         Appendix D – NYSDEC IC/EC Certification Form  
                         Appendix E – Site Inspection Forms

cc:                  C. Morisi – 420 Kent Ave, LLC c/o Spitzer Enterprises  
                         M. Raygorodetsky, E. Burgess, Langan



## FIGURES



**LANGAN**

21 Penn Plaza, 360 West 31st Street, 8th Floor  
New York, NY 10001

T: 212.479.5400 F: 212.479.5444 www.langan.com

Langan Engineering, Environmental, Surveying,  
Landscape Architecture, and Geology, D.P.C.  
Langan Engineering and Environmental Services, Inc.  
Langan CT, Inc.  
Langan International LLC

Collectively known as Langan

Project

**416 KENT AVENUE**

BLOCK No. 2128, LOT No. 5  
BROOKLYN

KINGS

NEW YORK

Figure Title

**SITE LOCATION  
MAP**

Project No.

170332902

Date

04/15/2020

Scale

NTS

Drawn By

Checked By

DC

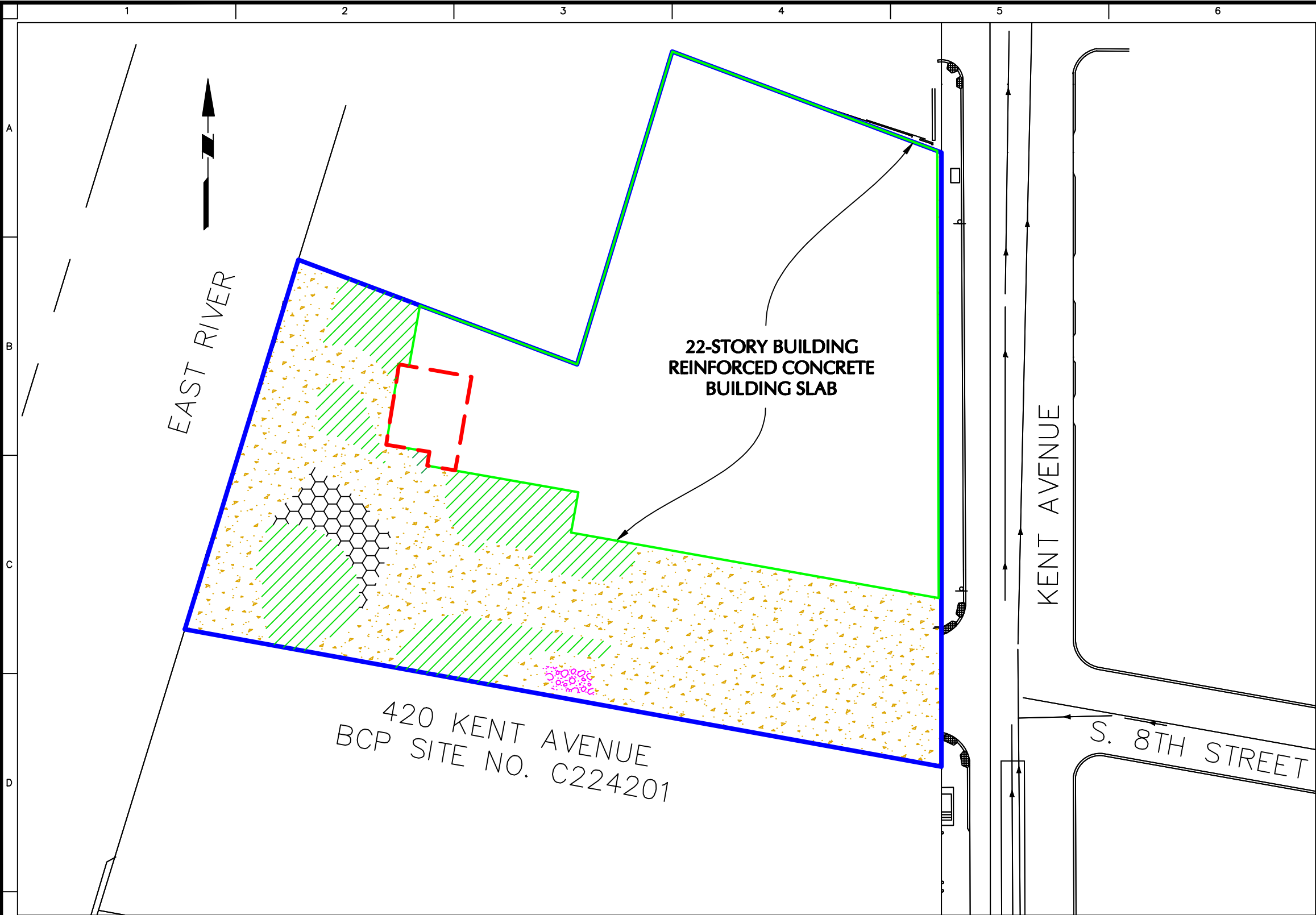
JL

Submission Date

-

Figure No.

**1**



- NOTES:
1. DRAWING BASED ON OCTOBER 23, 2014 SURVEY BY CND MAPPING, INC.
  2. LOCATIONS OF PAVED AND LANDSCAPED AREAS ARE BASED ON A DRAWING BY ODA ARCHITECTURE, TITLED "WATERFRONT ACCESS PLAN", DATED 12/09/2014.
  3. SMD = SUB-MEMBRANE DEPRESSURIZATION

LEGEND:

- SITE BOUNDARY
- BUILDING BOUNDARY
- SMD SYSTEM BOUNDARY
- DRIVEWAYS/WALKWAYS  
CONCRETE PAVED
- LANDSCAPED AREAS  
2 FEET CLEAN FILL CAP
- AREA PAVED WITH CONCRETE  
IN MARCH 2020
- AREA PAVED WITH GRAVEL IN  
JUNE 2021



**LANGAN**

21 Penn Plaza, 360 West 31st Street, 8th Floor  
New York, NY 10001  
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Langan Engineering, Environmental, Surveying,  
Landscape Architecture, and Geology, D.P.C.  
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Project

**416 KENT AVE**  
**BLOCK No. 2128, LOT No. 5**  
**BROOKLYN**

**KINGS**

**NEW YORK**

Figure Title

**SITE LAYOUT**  
**MAP**

Project No.  
170332902

Date  
04/15/2022

Scale  
1" = 40'

Drawn By  
DC

Checked By  
JL

Figure No.

**2**

**APPENDIX A**  
**Executed Environmental Easement**



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

**THIS INDENTURE** made this 23<sup>rd</sup> day of SEPTEMBER 2015, between Owner(s) 420 Kent Avenue, LLC, having an office at c/o Spitzer Enterprises, 730 Fifth Avenue, Suite 2202, New York, New York 10019, County of New York, 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 416 Kent Avenue (a/k/a 418 Kent Avenue) in the City of New York, County of Kings 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 2128 Lot 5, being the same as that property conveyed to Grantor by deed dated February 4, 2015 and recorded in the City Register of the City of New York as CRFN # 2015000067307. The property subject to this Environmental Easement (the "Controlled Property") comprises approximately 1.056 +/- acres, and is hereinafter more fully described in the Land Title Survey dated September 30, 2014 and last revised August 10, 2015 prepared by Arkadiusz Jusiega, PLS of CND Mapping, Inc., 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 Brownfield Cleanup Agreement Index Number: C224200-02-15, 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:

**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 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

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: C224200  
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. 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.

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

420 Kent Avenue, LLC:

By: 

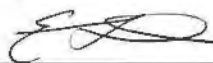
Print Name: ELIOT SPITZER

Title: MANAGER Date: 9/15/15

**Grantor's Acknowledgment**

STATE OF NEW YORK     )  
  ) ss:  
COUNTY OF                 )


On the 15 day of September, in the year 20 15, before me, the undersigned, personally appeared Eliot Spitzer, 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

**EKATERYNA KOSIW**  
**Notary Public - State of New York**  
**No. 01KO6271994**  
**Qualified in Kings County**  
**My Commission Expires Nov. 13, 2016**

**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     )

On the 23<sup>rd</sup> day of September, in the year 2015, 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. 01CH5032146  
Qualified in Schenectady County  
Commission Expires August 22, 2016

**SCHEDULE "A" PROPERTY DESCRIPTION**

Block 2128 Lot 5

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING IN THE BOROUGH OF BROOKLYN, COUNTY OF KINGS, CITY AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WESTERLY SIDE OF KENT AVENUE, DISTANT 1080.88 FEET NORHTERLY FROM THE CORNER FORMED BY THE INTERSECTION OF THE WESTERLY SIDE OF KENT AVENUE WITH THE NORTHERLY SIDE OF DIVISION AVENUE,

RUNNING THENCE WESTERLY FORMING AN INTERIOR ANGLE OF 79 DEGREES 43 MINUTES 02 SECONDS 281.80 FEET (ACTUAL) 281.86 FEET (DEED) TO THE U.S. BULKHEAD LINE. APPROVED 2/25/1918;

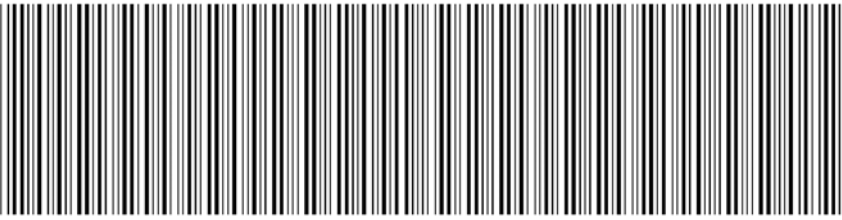


THENCE NORTHTERLY ALONG SAID BULKHEAD LINE, 162.20 FEET;

THENCE EASTERLY PARALLEL WITH THE LAND NOW/FORMERLY CITY OF NEW YORK 110.22 FEET;

THENCE NORTHERLY PARALLEL WITH SAID U.S. BULKHEAD LINE 119.87 FEET;

THENCE EASTERLY PARALLEL WITH LAND NOW/FORMERLY CITY OF NEW YORK, 103.87 FEET TO APOINT ON THE WESTERLY SIDE OF KENT AVENUE;

THENCE SOUTHERLY ON THE WESTERLY SIDE OF KENT AVENUE, 225.08 FEET TO THE POINT OR PLACE OF BEGINNING.

<b>NYC DEPARTMENT OF FINANCE OFFICE OF THE CITY REGISTER</b>  This page is part of the instrument. The City Register will rely on the information provided by you on this page for purposes of indexing this instrument. The information on this page will control for indexing purposes in the event of any conflict with the rest of the document.		 <b>2015102000267001001E500D</b>		
<b>RECORDING AND ENDORSEMENT COVER PAGE</b> <span style="float: right;"><b>PAGE 1 OF 10</b></span>				
<b>Document ID: 2015102000267001</b> Document Type: EASEMENT Document Page Count: 9		Document Date: 09-23-2015 Preparation Date: 10-20-2015		
<b>PRESENTER:</b> LEX TERRAE, LTD. 331 MADISON AVENUE, 9TH FL NEW YORK, NY 10017 SUPPORT@SIMPLIFILE.COM		<b>RETURN TO:</b> LT SERVICE CORP. 521 FIFTH AVENUE, 23RD FLOOR NEW YORK, NY 10175 SUPPORT@SIMPLIFILE.COM		
<b>PROPERTY DATA</b>				
Borough	Block	Lot	Unit	Address
BROOKLYN	2128	5	Entire Lot	418 KENT AVENUE
<b>Property Type: INDUSTRIAL BUILDING</b>				
<b>CROSS REFERENCE DATA</b>				
CRFN _____ or DocumentID _____ or _____ Year _____ Reel _____ Page _____ or File Number _____				
<b>PARTIES</b>				
<b>GRANTOR/SELLER:</b> 420 KENT AVENUE LLC C/O SPITZER ENTERPRISES, 730 FIFTH AVENUE NEW YORK, NY 10019			<b>GRANTEE/BUYER:</b> COMMISSIONER DEPT. OF ENVIRONMENTAL CONSERVATION 625 BROADWAY ALBANY, NY 12233	
<b>FEES AND TAXES</b>				
<b>Mortgage :</b> Mortgage Amount: \$ 0.00 Taxable Mortgage Amount: \$ 0.00 Exemption: TAXES: County (Basic): \$ 0.00 City (Additional): \$ 0.00 Spec (Additional): \$ 0.00 TASF: \$ 0.00 MTA: \$ 0.00 NYCTA: \$ 0.00 Additional MRT: \$ 0.00 TOTAL: \$ 0.00 Recording Fee: \$ 82.00 Affidavit Fee: \$ 0.00			Filing Fee: \$ 0.00 NYC Real Property Transfer Tax: \$ 0.00 NYS Real Estate Transfer Tax: \$ 0.00	
<b>RECORDED OR FILED IN THE OFFICE OF THE CITY REGISTER OF THE CITY OF NEW YORK</b>				
			Recorded/Filed 10-22-2015 10:17 City Register File No.(CRFN): <b>2015000377618</b>   <b>City Register Official Signature</b>	



County: Kings Site No: C224200 Brownfield Cleanup Agreement Index : C224200-02-15

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

**THIS INDENTURE** made this 23<sup>rd</sup> day of SEPTEMBER 2015, between Owner(s) 420 Kent Avenue, LLC, having an office at c/o Spitzer Enterprises, 730 Fifth Avenue, Suite 2202, New York, New York 10019, County of New York, 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 416 Kent Avenue (a/k/a 418 Kent Avenue) in the City of New York, County of Kings 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 2128 Lot 5, being the same as that property conveyed to Grantor by deed dated February 4, 2015 and recorded in the City Register of the City of New York as CRFN # 2015000067307. The property subject to this Environmental Easement (the "Controlled Property") comprises approximately 1.056 +/- acres, and is hereinafter more fully described in the Land Title Survey dated September 30, 2014 and last revised August 10, 2015 prepared by Arkadiusz Jusiega, PLS of CND Mapping, Inc., 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

County: Kings Site No: C224200 Brownfield Cleanup Agreement Index : C224200-02-15

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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 Brownfield Cleanup Agreement Index Number: C224200-02-15, 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:

**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;

Environmental Easement Page 2



County: Kings Site No: C224200 Brownfield Cleanup Agreement Index : C224200-02-15

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(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**

County: Kings Site No: C224200 Brownfield Cleanup Agreement Index : C224200-02-15

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**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;

County: Kings Site No: C224200 Brownfield Cleanup Agreement Index : C224200-02-15

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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. 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: C224200  
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

County: Kings Site No: C224200 Brownfield Cleanup Agreement Index : C224200-02-15

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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. 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.

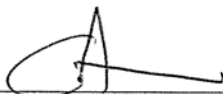
**Remainder of Page Intentionally Left Blank**

County: Kings Site No: C224200 Brownfield Cleanup Agreement Index : C224200-02-15

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

420 Kent Avenue, LLC:

By: 


Print Name: ELIOT SPITZER

Title: MANAGER Date: 9/15/15

**Grantor's Acknowledgment**

STATE OF NEW YORK     )  
  ) ss:  
COUNTY OF                     )

On the 15 day of September, in the year 20 15, before me, the undersigned, personally appeared Eliot Spitzer, 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

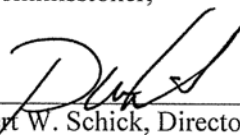
**EKATERYNA KOSIW**  
Notary Public - State of New York  
No. 01KO6271994  
Qualified in Kings County  
My Commission Expires Nov. 13, 2016

County: Kings Site No: C224200 Brownfield Cleanup Agreement Index : C224200-02-15

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**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     )

On the 23<sup>rd</sup> day of September, in the year 2015, 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. 01CH5032146**  
**Qualified in Schenectady County**  
**Commission Expires August 22, 2016**

County: Kings Site No: C224200 Brownfield Cleanup Agreement Index : C224200-02-15

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**SCHEDULE "A" PROPERTY DESCRIPTION**

Block 2128 Lot 5

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING IN THE BOROUGH OF BROOKLYN, COUNTY OF KINGS, CITY AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WESTERLY SIDE OF KENT AVENUE, DISTANT 1080.88 FEET NORHTERLY FROM THE CORNER FORMED BY THE INTERSECTION OF THE WESTERLY SIDE OF KENT AVENUE WITH THE NORTHERLY SIDE OF DIVISION AVENUE,

RUNNING THENCE WESTERLY FORMING AN INTERIOR ANGLE OF 79 DEGREES 43 MINUTES 02 SECONDS 281.80 FEET (ACTUAL) 281.86 FEET (DEED) TO THE U.S. BULKHEAD LINE. APPROVED 2/25/1918;

THENCE NORTHTERLY ALONG SAID BULKHEAD LINE, 162.20 FEET;

THENCE EASTERLY PARALLEL WITH THE LAND NOW/FORMERLY CITY OF NEW YORK 110.22 FEET;

THENCE NORTHERLY PARALLEL WITH SAID U.S. BULKHEAD LINE 119.87 FEET;

THENCE EASTERLY PARALLEL WITH LAND NOW/FORMERLY CITY OF NEW YORK, 103.87 FEET TO APOINT ON THE WESTERLY SIDE OF KENT AVENUE;

THENCE SOUTHERLY ON THE WESTERLY SIDE OF KENT AVENUE, 225.08 FEET TO THE POINT OR PLACE OF BEGINNING.

Only copies from the original of this survey marked with an original of the land surveyor's embossed seal shall be considered to be valid true copies.

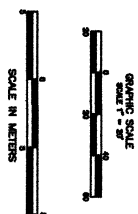
Unauthorized alteration or addition to a survey map bearing a licensed land surveyor's seal is a violation of section 7209, sub-division 2, of the New York State Education Law.

Certification indicated hereon signify that this survey was prepared in accordance with the existing Code of Practice for Land Surveys adopted by the New York State Association of Professional Land Surveyors. Said certifications shall run only to the person for whom the survey is prepared, and on his behalf to the title company, governmental agency and lending institution listed hereon, and to the assignees of the lending institution. Certifications are not transferable to additional institutions or subsequent owner.

Only copies from the original of this survey marked with an original of the land surveyor's embossed seal shall be considered to be valid true copies.

Unauthorized alteration or addition to a survey map bearing a licensed land surveyor's seal is a violation of section 7209, sub-division 2, of the New York State Education Law.

Certification indicated herein signifies that this survey was prepared in accordance with the existing Code of Practice for Land Surveys adopted by the New York State Association of Professional Land Surveyors. Said certifications shall run only to the person for whom the survey is prepared, and on his behalf to the title company, governmental agency and lending institution listed herein, and to the assignees and the lending institution. Certifications are not transferable to additional institutions or subsequent owner.



- |     |                      |
|-----|----------------------|
| ⑨   | SEWER MANHOLE        |
| 10" | TREE WITH CALIPER    |
| ⑩   | UTILITY POLE         |
| →   | WATER FLOW           |
| ⊞   | WATER VALVE          |
| ⚡   | LIGHT POLE           |
| ↔   | FLOW OF TRAFFIC      |
| ⬢   | GAS VALVE            |
| ⊞   | CHIMNEY              |
| ⊞   | DRAIN INLET          |
| ●   | BOLLARD              |
| ⚡   | FIRE HYDRANT         |
| A   | TRAFFIC SIGN         |
| Ⓟ   | PUBLIC WORKS MANHOLE |
| ⓔ   | ELECTRIC MANHOLE     |
| Ⓜ   | WATER MANHOLE        |
| Ⓝ   | NYC TRANSIT MANHOLE  |
| Ⓡ   | RAILROAD MANHOLE     |

WRITTEN DESCRIPTION OF BLOCK 2128 LOT 5  
AND THE EASEMENT PERIMETER:

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING IN THE BOROUGH OF BROOKLYN, COUNTY OF KINGS, CITY AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WESTERLY SIDE OF KENT AVENUE, DISTANT 1080.88 FEET NORTHERLY FROM THE CORNER FORMED BY THE INTERSECTION OF THE WESTERLY SIDE OF KENT AVENUE WITH THE NORTHERLY SIDE OF DIVISION AVENUE;

RUNNING THENCE WESTERLY FORMING AN INTERIOR ANGLE OF 79 DEGREES 43 MINUTES  
02 SECONDS 281.80 FEET ( ACTUAL) 281.86 FEET (DEED) TO THE U.S BULKHEAD LINE,  
APPROVED FEBRUARY 25TH 1918

THENCE NORTHERLY ALONG SAID U.S BULKHEAD LINE 162.20 FEET  
THENCE EASTERLY PARALLEL WITH THE LAND NOW/FORMERLY CITY OF NEW YORK 110.22  
FEET


THENCE NORTHERLY PARALLEL, WITH SAID U.S. BULKHEAD LINE 119.87 FEET THENCE EASTERLY PARALLEL, WITH LAND NOW FORMERLY CITY OF NEW YORK 103.87 FEET TO A POINT ON THE WESTERLY SIDE OF KENT AVENUE

THESE SOUTHERLY ON THE WESTERLY SIDE OF KENT AVENUE 225.08 FEET  
POINT OR PLACE OF BEGINNING.

CONTAINING APPROXIMATELY 46021.54 SQUARE FEET (1.056 ACRE)

EASEMENT, RESERVATION & CONDITION NOTES:

1. SUBJECT TO ELECTRICAL RAILROAD EASEMENT OVER KENT AVENUE LIBER 2133 PAGE 394; LIBER 2140 PAGE 289; LIBER 2093 PAGE 75; LIBER2095 PAGE 83; LIBER 2276 PAGE 309; LIBER 11 PAGES 397 & 391.
2. RESERVATIONS AS CONTAINED IN LETTER PATENT IN LIBER 3240 PAGE 510.
3. TERMS AND CONDITIONS IN RELEASE IN LIBER 5873 PAGE 546.
4. TERMS AND CONDITIONS IN LETTERS PATENT IN LIBER 896

No. 416 KENT AVENUE	BROOKLYN	Tax Map Sect.	BLOCK 2128
COUNTY OF KINGS	STATE OF NEW YORK		LOT(S) 5
ENVIRONMENTAL EASEMENT SURVEY			
DATE OF SURVEY: SEPTEMBER 30th, 2014.			
DATE OF REVISION: AUGUST 10th, 2015 for easement tax lot subdivision only.			
THIS SURVEY DOES NOT SHOW ANY RECENT IMPROVEMENTS.			
CERTIFIED TO: 1. NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION			
STARTED ORDERED BRUNSE, PAPER & REES, P.C.			
			
SURVEYED BY: ARKADIS DESIGN, P.L.S. NEW YORK STATE E.S. # 050589			
<b>CND MAPPING, INC.</b> 48 CEDAR ROAD, WESTBURY NEW YORK, 11590 Phone (516) 333-3555 Fax (516) 333-3055			
E-MAIL: SURVEY.CNDMAPPING@GMAIL.COM			

**CND MAPPING, INC.**  
46 CEDAR ROAD, WESTBURY  
NEW YORK, 11580  
Phone (516) 333-3555  
Fax (516) 333-3055  
E-MAIL: SURVEY.CNDMAPPING@GMAIL.COM

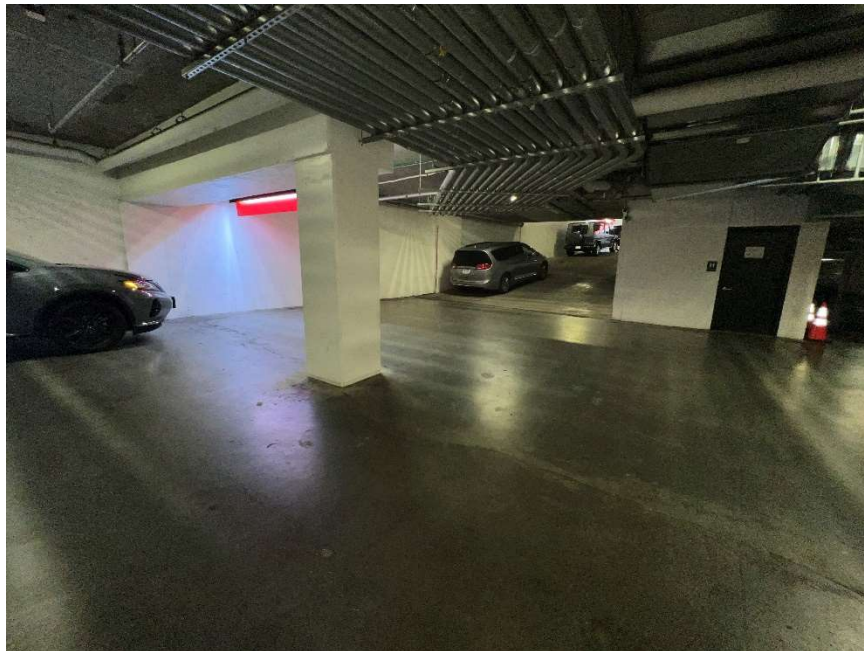


## **APPENDIX B**

### **Photographic Documentation**



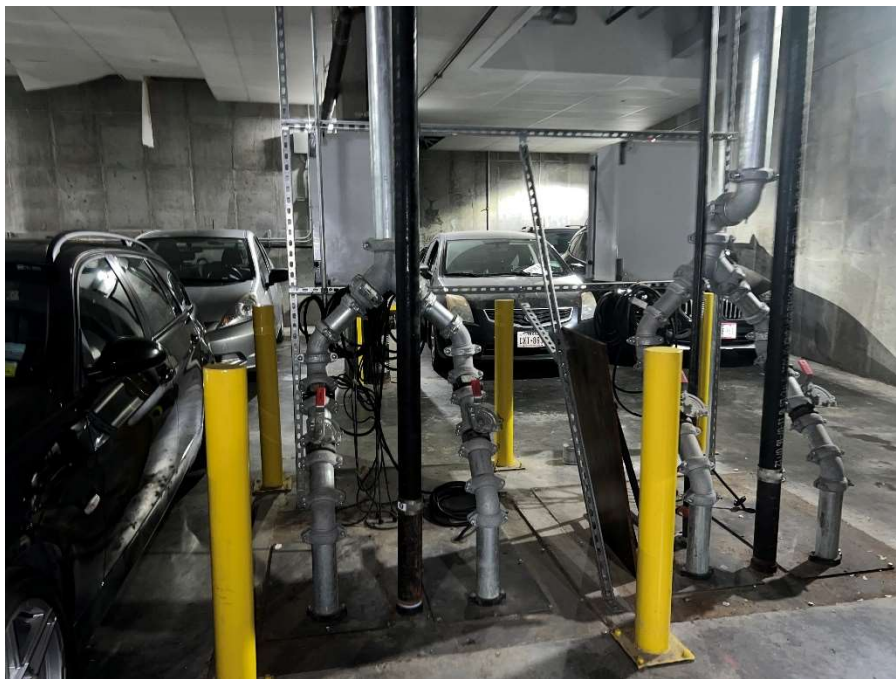
**Photograph 1:** View of 416 Kent from the waterfront area (04/06/2023)



**Photograph 2:** General view of the reinforced concrete slab within the cellar level ventilated parking garage (04/06/2023)



**Photograph 3:** Example floor drain in the cellar level ventilated parking garage (04/06/2023)

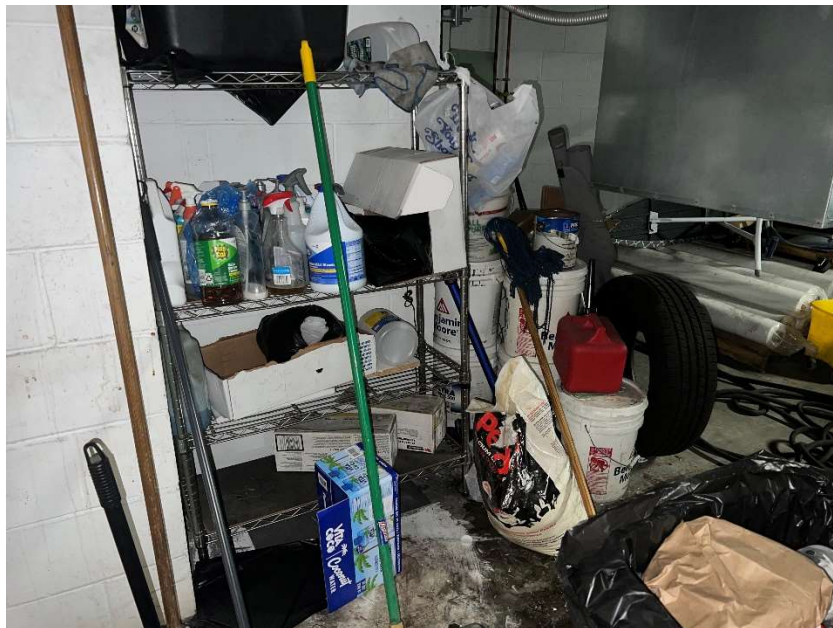


**Photograph 4:** View of sewer lift system/sump pits and pump located in the cellar level ventilated parking garage (04/06/2023)





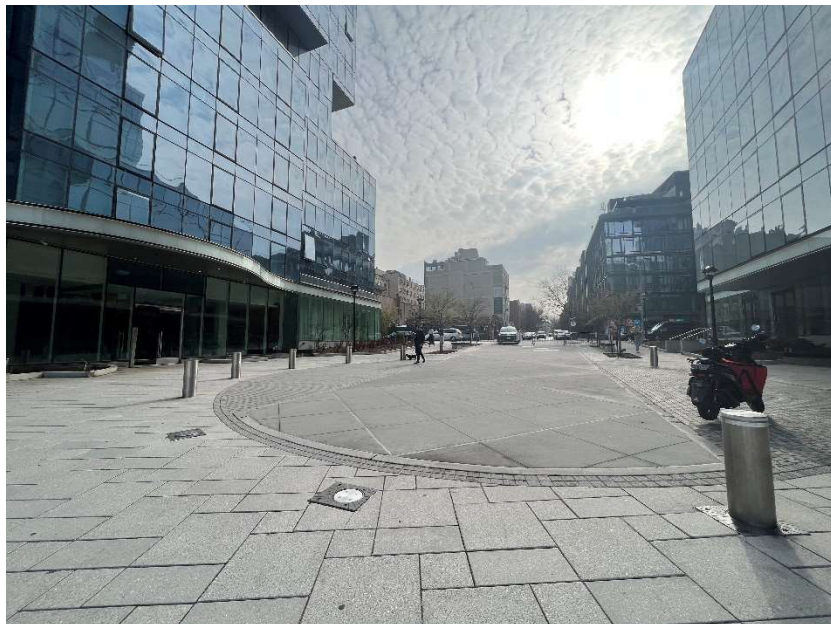
**Photograph 5:** View of example trench drain located within the cellar level ventilated parking garage (04/06/2023)



**Photograph 6:** View of chemical storage within the cellar level ventilated parking garage (04/06/2023)



**Photograph 7:** View of blower box on the building roof (04/06/2023)

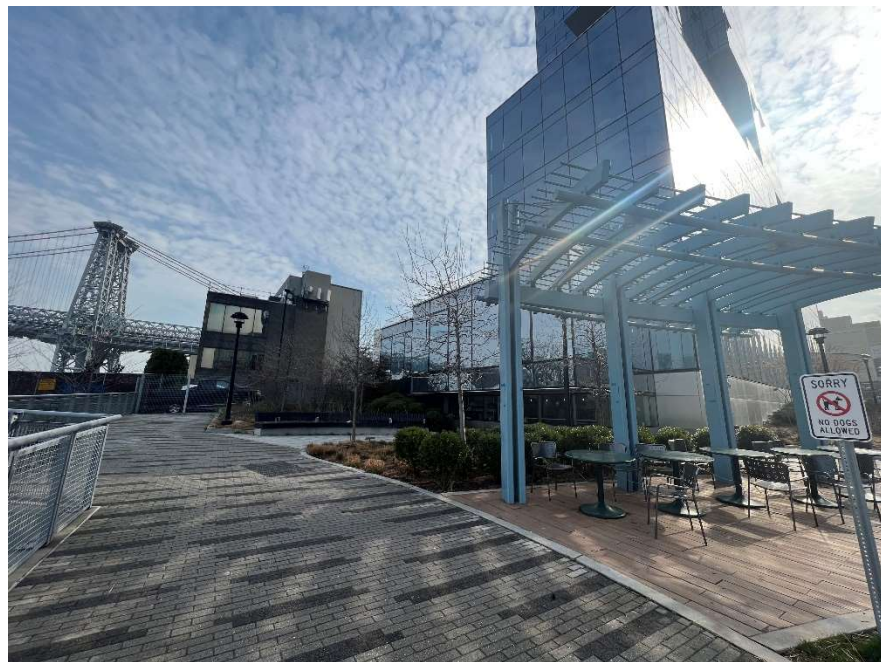


**Photograph 8:** View of concrete pavers and courtyard south of 416 Kent Avenue building, facing east (04/06/2023)

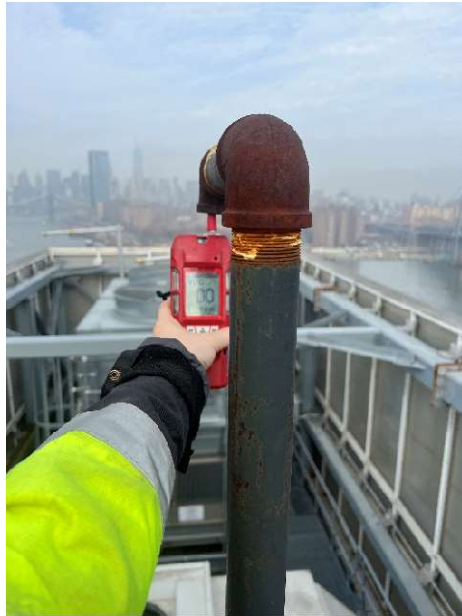




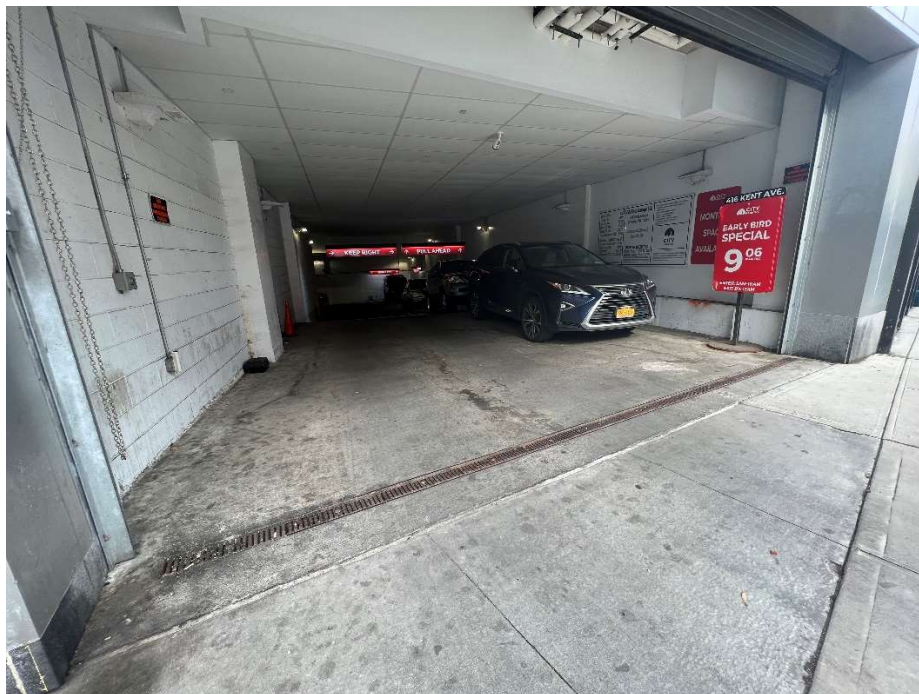
**Photograph 9:** View of composite cover including concrete pavers, stone dust, and vegetation near the southwestern corner of the 416 Kent building, facing east (04/06/2023)



**Photograph 10:** View of composite cover along the riverside esplanade, facing north (04/06/2023)



**Photograph11:** View of photoionization device (PID) reading the SMD outflow on the roof of 416 Kent Ave, facing west (04/06/2023)



**Photograph 12:** Sidewalk and parking garage entrance of 416 Kent Ave, facing west (04/06/2023)





**Photograph 13:** Interior view of the active restaurant located in the southwest part of the site, facing south (04/06/2023)



**Photograph 14:** Interior view of the active restaurant located in the southwest part of the site (04/06/2023)



## **APPENDIX C**

### **SMD System As-Builts**

September 13, 2018

Sarah Quandt  
New York State Department of Environmental Conservation  
Division of Environmental Remediation  
625 Broadway  
Albany, NY 12233-7013

**Re: Sub-Membrane Depressurization System  
416 Kent Avenue  
Brooklyn, NY  
BCP Site No. C224200  
Langan Project No.: 170332902**

Dear Ms. Quandt:

The under-slab components of the sub-membrane depressurization (SMD) system were installed during the foundation construction in general accordance with our SMD design drawings and details included in the NYSDEC-approved Remedial Action Work Plan (RAWP) dated March 2015 (Attachment 1). The SMD system is comprised of a series of horizontal, interconnected 4-inch diameter perforated high-density polyethylene (HDPE) piping placed in an 8-inch layer of ¾-inch stone; the horizontal system is located beneath a 47-mil-thick vapor barrier membrane (Grace Preprufe® 300R and 160R and Florprufe® 120), which extends underneath the building floor slab above the stone layer. The horizontal piping is connected to one vertical, subgrade vapor collection pipe located in the western portion of the Site. The vertical collection pipe attaches to a 4-inch diameter riser that extends through the floor slab. The risers continue upward through the building interior, where they connect to roof-mounted regenerative blower units. Each riser has a sample port above the floor slab. Under-slab component installation was observed and documented by Langan during foundation construction activities; field observations and installation photographs are included in the daily reports from November to December 2016. The as-built SMD drawings, prepared by ZDG Construction Management of New York, New York (ZDG) are provided as Attachment 2.

Sincerely,

**Langan Engineering, Environmental, Surveying,  
Landscape Architecture and Geology, D.P.C.**



Enclosure: Attachment 1 – Design SMD Detail Drawings (Prepared by Langan)  
Attachment 2 – As-Built Drawings for Under-Slab SMD Components (Prepared by ZDG)

cc: Nicole Rice (Langan)



B



(PLAN VIEW)



(PLAN VIEW)



D



NOT TO SCALE

## D

- E

- | SIEVE SIZE | % PASSING BY WEIGHT |
|------------|---------------------|
| 1 1/2-INCH | 100                 |
| 1-INCH     | 90-100              |
| 1/2-INCH   | 0-5                 |
| #200       | <1                  |

16. CLEAN STONE LAYER ON TOP OF PIPE WAS NOT COMPACTED.

17. CONTRACTOR SHALL PROVIDE AS-BUILT DRAWINGS OF COMPLETE SMD SYSTEM TO ENGINEER FOLLOWING INSTALLATION.

VAPOR BARRIER NOTES:

1. VAPOR BARRIER WAS INSTALLED IN ACCORDANCE WITH ALL APPLICABLE MANUFACTURER GUIDELINES AND DETAILS.



12




D

## 1

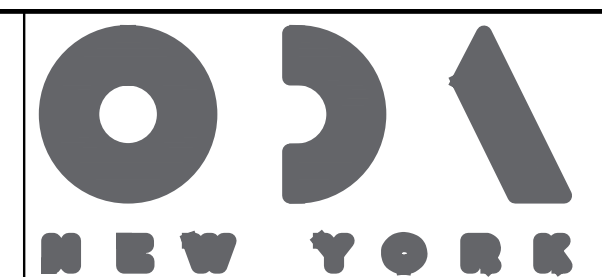
- 5

1

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11M		




$$3/16" = 1' - 0"$$

- PAGE: 3 OF 44

WARNING - IT IS A VIOLATION OF NEW YORK STATE EDUCATIONAL LAW, SECTION 7209.2, FOR ANY PERSON, UNLESS HE IS ACTING UNDER THE DIRECTION OF A LICENSED PROFESSIONAL ENGINEER OR LAND SURVEYOR, TO ALTER THIS DOCUMENT IN ANY WAY. IF ALTERED, THE ALTERING PERSON SHALL COMPLY WITH THE REQUIREMENTS OF NEW YORK EDUCATIONAL LAW, SECTION 7209.2



**APPENDIX D**  
**NYSDEC IC/EC Certification Form**



Enclosure 2  
**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION**  
**Site Management Periodic Review Report Notice**  
**Institutional and Engineering Controls Certification Form**



**Site Details**

**Box 1**

**Site No.**            **C224200**

**Site Name** **416 Kent Avenue**

Site Address: 416 Kent Avenue      Zip Code: 11249  
City/Town: Brooklyn  
County: Kings  
Site Acreage: 1.056

Reporting Period: April 03, 2022 to April 03, 2023

YES      NO

1. Is the information above correct?

☐      ☐

If NO, include handwritten above or on a separate sheet.

2. Has some or all of the site property been sold, subdivided, merged, or undergone a tax map amendment during this Reporting Period?

☐      ☐

3. Has there been any change of use at the site during this Reporting Period (see 6NYCRR 375-1.11(d))?

☐      ☐

4. Have any federal, state, and/or local permits (e.g., building, discharge) been issued for or at the property during this Reporting Period?

☐      ☐

**If you answered YES to questions 2 thru 4, include documentation or evidence that documentation has been previously submitted with this certification form.**

5. Is the site currently undergoing development?

☐      ☐

**Box 2**

YES      NO

6. Is the current site use consistent with the use(s) listed below?  
Restricted-Residential, Commercial, and Industrial

☐      ☐

7. Are all ICs in place and functioning as designed?

☐      ☐

**IF THE ANSWER TO EITHER QUESTION 6 OR 7 IS NO, sign and date below and  
DO NOT COMPLETE THE REST OF THIS FORM. Otherwise continue.**

**A Corrective Measures Work Plan must be submitted along with this form to address these issues.**

\_\_\_\_\_  
Signature of Owner, Remedial Party or Designated Representative

\_\_\_\_\_  
Date



**Box 2A**

YES NO

8. Has any new information revealed that assumptions made in the Qualitative Exposure Assessment regarding offsite contamination are no longer valid? ☐ ☐

**If you answered YES to question 8, include documentation or evidence that documentation has been previously submitted with this certification form.**

9. Are the assumptions in the Qualitative Exposure Assessment still valid?  
(The Qualitative Exposure Assessment must be certified every five years) ☐ ☐

**If you answered NO to question 9, the Periodic Review Report must include an updated Qualitative Exposure Assessment based on the new assumptions.**

**SITE NO. C224200****Box 3****Description of Institutional Controls**ParcelOwnerInstitutional Control**2128-5**

420 Kent Avenue LLC

Ground Water Use Restriction  
Soil Management Plan  
Landuse Restriction  
Monitoring Plan  
Site Management Plan  
O&M Plan  
IC/EC Plan

- Compliance with the Environmental Easement and SMP
- Operation and maintenance of Environmental Controls as specified in the SMP
- Inspection of all Engineering Controls at frequency specified in the SMP
- Reporting of data at frequency specified in SMP

Institutional Controls in the form of site restrictions:

- Long-term IC/EC must be employed to allow for restricted residential, commercial or industrial use
- Property may not be used for a higher level of use
- Future activities disturbing remaining contamination must be adhere to SMP
- Prohibited use of groundwater without treatment
- Prohibited farming and vegetable gardens
- Periodic review and certification at frequency specified in the SMP
- Monitoring to assess the performance and effectiveness of the remedy as defined in the SMP
- Access to the site must be provided to NYS with reasonable prior notice

**Box 4****Description of Engineering Controls**ParcelEngineering Control**2128-5**

Vapor Mitigation  
Cover System

- Composite cover (asphalt, concrete, building slabs, landscaped areas)
- Submembrane depressurization (SMD) system

**Periodic Review Report (PRR) Certification Statements**

1. I certify by checking "YES" below that:

a) the Periodic Review report and all attachments were prepared under the direction of, and reviewed by, the party making the Engineering Control certification;

b) to the best of my 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 the information presented is accurate and complete.

YES NO

☐☐

2. For each Engineering control listed in Box 4, I certify by checking "YES" below that all of the following statements are true:

(a) The Engineering Control(s) employed at this site is unchanged since the date that the Control was put in-place, or was last approved by the Department;

(b) nothing has occurred that would impair the ability of such Control, to protect public health and the environment;

(c) access to the site will continue to be provided to the Department, to evaluate the remedy, including access to evaluate the continued maintenance of this Control;

(d) nothing has occurred that would constitute a violation or failure to comply with the Site Management Plan for this Control; and

(e) if a financial assurance mechanism is required by the oversight document for the site, the mechanism remains valid and sufficient for its intended purpose established in the document.

YES NO

☐☐

**IF THE ANSWER TO QUESTION 2 IS NO, sign and date below and  
DO NOT COMPLETE THE REST OF THIS FORM. Otherwise continue.**

**A Corrective Measures Work Plan must be submitted along with this form to address these issues.**

\_\_\_\_\_  
Signature of Owner, Remedial Party or Designated Representative

\_\_\_\_\_  
Date

IC CERTIFICATIONS  
SITE NO. C224200

Box 6

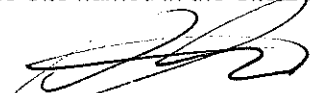
**SITE OWNER OR DESIGNATED REPRESENTATIVE SIGNATURE**

I certify that all information and statements in Boxes 1,2, and 3 are true. I understand that a false statement made herein is punishable as a Class "A" misdemeanor, pursuant to Section 210.45 of the Penal Law.

I CHARLOS MORISI at 555 MADISON AVE NY NY 10022  
print name print business address

am certifying as Owner (Owner or Remedial Party)

for the Site named in the Site Details Section of this form.

  
Signature of Owner, Remedial Party, or Designated Representative  
Rendering Certification

5/2/23  
Date

## EC CERTIFICATIONS

Box 7

### Professional Engineer Signature

I certify that all information in Boxes 4 and 5 are true. I understand that a false statement made herein is punishable as a Class "A" misdemeanor, pursuant to Section 210.45 of the Penal Law.

I Jason J. Hayes at 360 W 31st Street, New York, NY,  
print name print business address

am certifying as a Professional Engineer for the 420 Kent Avenue LLC  
(Owner or Remedial Party)

  
Signature of Professional Engineer, for the Owner or  
Remedial Party, Rendering Certification



Stamp  
(Required for PE)

5/3/2023  
Date

## **APPENDIX E**

### **Site Inspection Forms**

# SITE INSPECTION CHECKLIST

Site Name: 416 Kent Avenue Location: Brooklyn, NY Project Number: 170332902

Inspector Name: Gabriella DeGennaro & TJ Malgieri Date: April 6, 2023 Weather Conditions: 60's, partly cloudy

Reason for Inspection (i.e., routine, maintenance, severe condition, etc.): Annual PRR Inspection

Check one of the following: **Y:** Yes **N:** No **NA:** Not Applicable

		Y	N	NA	Normal Situation	Remarks
	<b>General</b>					
1	What are the current site conditions?	--	--	--	--	Active residential building with a parking garage, an active commercial space and ground floor restaurant.
2	Are all applicable site records (e.g., documentation of construction activity, SMD system maintenance and repair, most current easement, etc.) complete and up to date?	Y			Y	
	<b>Environmental Easement</b>					
3	Has site use (restricted residential) remained the same?	Y			Y	
4	Does it appear that all environmental easement restrictions have been followed?	Y			Y	
	<b>Impermeable Cap</b>					
5	Are there any indications of a breach in the capping system at the time of this inspection?		N		N	
6	Are there any cracks in the building slabs?		N		N	
7	Are there any cracks in the building walls?		N		N	
8	Is there any construction activity, or indication of any construction activity within the past certification year (including any tenant improvements), that included the breaching of the capping system, on-site at the time of this inspection?		N		N	
9	If YES to number 8, is there documentation that the SMP, HASP, and CAMP for the site was/is being followed?			NA	NA if N to 6/ Y if Y to 6	

\* If the answer to any of the above questions indicate non-compliance with any IC/ECs for the site, additional remarks must be provided and, where applicable, documentation attached to this checklist detailing additional inspection and repair activities.

**Additional remarks**

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**Minimum Inspection Schedule:** Site-wide inspections will be conducted annually, per certification year, at a minimum. Additional inspections will also be conducted at times of severe condition events. All inspection events will utilize this checklist.

# COMPOSITE COVER SYSTEM INSPECTION CHECKLIST

Site Name: 416 Kent Avenue Location: Brooklyn, NY Project Number: 170332902

Inspector Name: Gabriella DeGennaro & TJ Malgieri Date: April 6, 2023 Weather Conditions: 60's, partly cloudy

Reason for Inspection (i.e., routine, maintenance, severe condition, etc.): Annual PRR Inspection

Check one of the following: **Y:** Yes **N:** No **NA:** Not Applicable

		Y	N	NA	Normal Situation	Remarks
	<b>General</b>					
1	What are the current site conditions?	–	–	–	–	Active residential building with a parking garage, an active commercial space and ground floor restaurant.
	<b>Impermeable Cap</b>					
2	Are there any indications of a breach in the capping system at the time of this inspection?		N		N	
3	Is there any construction activity, or indication of any construction activity within the past certification year (including any tenant improvements), that included the breaching of the capping system, on-site at the time of this inspection?		N		N	
4	If YES to number 3, is there documentation that the Soil Management Plan, HASP, and CAMP for the site was/is being followed? Any breach of the cover system into residual contamination or the SMD system should be overseen by the remedial engineer and documented and reported in the periodic review report.			NA	NA if N to 6/ Y if Y to 6	

\* If the answer to any of the above questions indicate non-compliance with ECs for the site, additional remarks must be provided and, where applicable, documentation attached to this checklist detailing additional inspection and repair activities.

Additional remarks \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Minimum Inspection Schedule:** Site-wide inspections will be conducted annually, per certification year, at a minimum. Additional inspections will also be conducted at times of severe weather condition events. All inspection events will utilize this checklist.



# SMD SYSTEM INSPECTION CHECKLIST

Site Name: 416 Kent Avenue Location: Brooklyn, NY Project Number: 170332902

Inspector Name: Gabriella DeGennaro & TJ Malgieri Date: April 6, 2023 Weather Conditions: 60's, partly cloudy

Reason for Inspection (i.e., routine, maintenance, severe condition, etc.): Annual PRR Inspection

Check one of the following: **Y:** Yes **N:** No **NA:** Not Applicable

		Y	N	NA	Normal Situation	Remarks
	<b>Records</b>					
1	Is the Operations & Maintenance Plan readily available on-site?	Y			Y	
2	Based on site records, when was the last inspection, maintenance, or repair event?					3/31/2022
3	Based on site records, was the system inoperational for any amount of time since the last inspection, maintenance, or repair event? For how long? Provide details.		N		N	
	<b>Alarm System</b>					
4	Do the alarm lights indicate that the system is operational?			NA	Y	No alarm installed
	<b>General System</b>					
5	Is there any construction activity, or indication of any construction activity within the past certification year (including any tenant improvements), that included the breaching of the floor slab, on-site at the time of this inspection?		N		N	
6	If YES to number 5, is there documentation that the Soil Management Plan, HASP, and CAMP for the site was/is being followed?			NA	NA if N to 5/ Y if Y to 5	
7	If YES to number 5, is there documentation that all breaches in the floor slab have been sealed?			NA	NA if N to 5/ Y if Y to 5	
8	Does all visible SMD piping appear intact and undamaged?			NA	Y	Riser pipe not visible within the building
9	Have any intake points been constructed at the roof near (less than 10 feet) the SMD blower discharge point?		N		N	

# SMD SYSTEM INSPECTION CHECKLIST

Site Name: 416 Kent Avenue Location: Brooklyn, NY Project Number: 170332902

Inspector Name: Gabriella DeGennaro & TJ Malgieri Date: April 6, 2023 Weather Conditions: 60's, partly cloudy

Reason for Inspection (i.e., routine, maintenance, severe condition, etc.): Annual PRR Inspection

Check one of the following: **Y:** Yes **N:** No **NA:** Not Applicable

		Y	N	NA	Normal Situation	Remarks
	<b>SMD Blower Unit</b>					
10	Is the SSD blower operational at the time of the inspection?	Y			Y	
11	What is the VelociCalc Meter reading?	Y			Y	56.76 cfm
12	Is the SSD blower expelling air at the discharge point?	Y			Y	
13	Have dust and debris been removed from surface of blower?	Y			Y	
14	Have dirty or clogged filter cartridges been replaced?			NA	Y	Filter in good condition

- \* **If the answer to any of the above questions indicate the SMD system is non-operational or malfunctioning, or that this EC is in non-compliance, additional remarks must be provided and, where applicable, documentation attached to this checklist detailing additional inspection and repair activities.**

**Additional remarks** PID reading of 0.0 ppm, magnehelic pressure gauge reading 0

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**Minimum Inspection Schedule:** SMD inspections will be conducted quarterly for the first certification year at a minimum. Additional inspections will also be conducted at times of maintenance, repair, or severe condition events. The minimum schedule will be revised, as necessary, following the first certification year. All inspection events will utilize this checklist.