

1640 Flatbush Periodic Review Report

1640 Flatbush Avenue
Brooklyn, New York
NYSDEC BCP Site Number: C224212

Prepared for:
1640 Flatbush OZ Owner LLC
3 Columbus Circle – 26th Floor
New York, NY 10019

For Submittal to:
NYS Department of Environmental Conservation
Division of Environmental Remediation
Remedial Bureau B
625 Broadway, 12th Floor
Albany, NY 12233-7016

Prepared by:
Matthew M. Carroll, PE
&



Tenen Environmental, LLC
121 West 27th Street, Suite 303
New York, NY 10001

August 2025

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1.0 EXECUTIVE SUMMARY

On behalf of 1640 Flatbush Oz Owner LLC, Matthew M. Carroll, P.E. and Tenen Environmental, LLC have prepared this Periodic Review Report (PRR) for the property located at 1640 Flatbush Avenue, Brooklyn, Kings County, NY (the Site); Tax Block 7577 Lot 60. The site is an approximately 0.41-acre area and is bounded by a commercial shopping center, Flatbush Avenue, a strip mall shopping center, and mid-rise residential housing developments to the north, Aurelia Court followed by medium-rise residential apartment buildings to the south, Flatbush Avenue followed by a large residential housing complex to the east, and a mid-rise housing complex followed by East 31st Street to the west. A Site location map is included as Figure 1 and a Site layout is presented on Figure 2.

This document has been prepared in accordance with the Site Management Plan (SMP) dated November 2023 and approved by the New York State Department of Environmental Conservation (NYSDEC). The Site was remediated in accordance with the Brownfield Cleanup Agreement (BCA) Index #C224212-06-15; Site #C224212 which was issued on August 25, 2015 and amended with new ownership (1640 Flatbush OZ Owner LLC) on March 5, 2020.

The certification period covered by this Periodic Review Report is from December 19, 2023 through April 19, 2025. The work completed and reported in this PRR complies with the SMP and includes monitoring and inspections of engineering controls. The Site is currently in compliance with the material elements of the SMP. The remedial program, as detailed in the SMP, continues to be effective.

2.0 BACKGROUND AND SETTING

This section includes a description of the Site, and summaries of Site characteristics, historic operations and regulatory interactions.

2.1 Site Description

The site is located in Brooklyn, Kings County, New York and is identified as Block 7577 and Lot 60 on the New York City Tax Map. The site is an approximately 0.41-acre area and is bounded by a commercial shopping center, Flatbush Avenue, a strip mall shopping center, and mid-rise residential housing developments to the north, Aurelia Court followed by medium-rise residential apartment buildings to the south, Flatbush Avenue followed by a large residential housing complex to the east, and a mid-rise housing complex followed by East 31st Street to the west. Figure 1 shows the Site Location Map and Figure 2 shows the Site Layout.

2.2 Geological Setting

According to the Brooklyn Quadrangle US Topographic Map (2023), the Site is located approximately 28-31 feet above the North American Datum of 1983 (NAD83). The closest water body is the Paerdegat Basin, located approximately 2 miles southeast of the Site.

The stratigraphy of the Site, from the surface down, generally consists of glacially derived variable texture sands with gravel and some clay (the upper five to seven feet are considered to be fill material). Finer grained, more uniform sands and gravel were encountered beneath this interval to a maximum depth of 50 feet below grade (ft-bg). Groundwater at the Site was encountered at depths ranging from 25.49 to 27.78 ft-bg in permanent monitoring wells gauged as part of the Remedial Investigation (RI). The groundwater flow is in a northerly direction beneath the Site.

2.3 Historic Operations

The Site was historically occupied by several structures from at least 1930 including an automotive repair shop, a 70-car parking garage, a dry cleaner, a metal working shop, and a store. Prior to redevelopment, the Site was developed with a former gasoline station and a one-story convenience store. The building occupied a footprint of approximately 1,000 square feet (SF) in the center of the lot, and four pump islands covered by a canopy also occupied the lot.

2.4 Regulatory Background

1640 Flatbush Owner LLC entered into a BCA (Index #C224212-06-15; Site #C224212) on August 25, 2015 to remediate and develop the Site located at 1640 Flatbush Avenue in Brooklyn, NY, Block 7577 and Lot 60. The BCA was amended on March 5, 2020 to change the owner/entity name to 1640 Flatbush OZ Owner LLC.

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1640 Flatbush Avenue – Brooklyn, New York

Remedial action work on the Site began in April 2022 and was completed in January 2023. The Site has been remediated in accordance with the BCA and the NYSDEC-approved Remedial Action Work Plan (RAWP) dated February 2021, AMC Engineering, PLLC.

After completion of the remedial work described in the RAWP, a Final Engineering Report (FER) was prepared by Tenen Environmental, LLC (Tenen) of Manhattan, New York and certified by Matthew M. Carroll, P.E. in November 2023. In order to manage residual contamination at the Site, Tenen prepared a Site Management Plan (SMP) dated November 2023 that was subsequently approved by NYSDEC. The work described in this Periodic Review Report was completed in accordance with the approved SMP.

3.0 INSTITUTIONAL CONTROLS

Institutional controls (ICs) are present at the Site to protect human health and the environment. A description of these controls and the current status of each are provided below. The Institutional Controls Certification Form is included in Appendix 1.

3.1 Institutional Controls

3.1.1 Compliance with SMP

Institutional controls consisting of a deed restriction, onsite groundwater use limitations and onsite soil disturbance limitations are documented in the Environmental Easement and SMP. The Environmental Easement, which was approved by the NYSDEC on June 22, 2021, 2019 and was executed and filed with the Kings County Clerk. The Environmental Easement was recorded on July 8, 2021.

The following ICs are required to document compliance with the SMP:

- All ECs must be operated and maintained as specified in the SMP;
- All ECs must be inspected at a frequency and in a manner defined in the SMP;
- Groundwater and other environmental or public health monitoring must be performed as defined in the SMP;
- Data and information pertinent to Site management of the controlled property must be reported at the frequency and in a manner as defined in the SMP;
- All future activities that will disturb remaining contaminated material must be conducted in accordance with the SMP;
- Operation, maintenance, monitoring, inspection, and reporting of any mechanical or physical component of the remedy shall be performed as defined in the SMP, and;
- 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 the Environmental Easement.

Current status: The Environmental Easement remains in place. All systems are effective and currently operational. ICs requiring monitoring and inspections have been completed with the acceptance of this report. The required monitoring and inspections have been completed as required in the SMP.

3.1.2 Use Restrictions

The following use restrictions were placed on the property, in accordance with the Environmental Easement and SMP:

- The property may be used for: restricted residential, commercial, and industrial uses;
- The use of groundwater underlying the property is prohibited without necessary

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1640 Flatbush Avenue – Brooklyn, New York

- water quality treatment as determined by the New York State Department of Health (NYSDOH) or the New York County 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;
- The Site shall not be used for Residential purposes as defined in 6NYCRR 375-1.8(g)(2)(i), and the ECs may not be discontinued without an amendment or extinguishment of the Environmental Easement.

Current status: The Site is used in accordance with all restrictions. A statement regarding continued maintenance of any and all controls is included in Appendix A.

4.0 FINDINGS AND CONCLUSIONS

The results of the Site inspection performed on August 19, 2025 indicate the following:

- The Environmental Easement remains in place and the Site is used in accordance with all restrictions.

4.1 Schedule

With the acceptance of this report, inspections will begin annually beginning with the period from April 20, 2025 to April 20, 2026.

5.0 CERTIFICATIONS

I, Matthew Carroll, am a Professional Engineer licensed in the State of New York. I certify that:

1. The institutional controls are either unchanged or are compliant with NYSDEC-approved modifications.
2. NYSDEC can access the property.
3. The institutional controls continue to be protective of human health and the environment and do not constitute a violation or failure to comply with the SMP and subsequent NYSDEC-approved modifications.



Matthew M. Carroll
NYS PE License Number 091629

Periodic Review Report
1640 Flatbush Avenue – Brooklyn, New York

6.0 REFERENCES

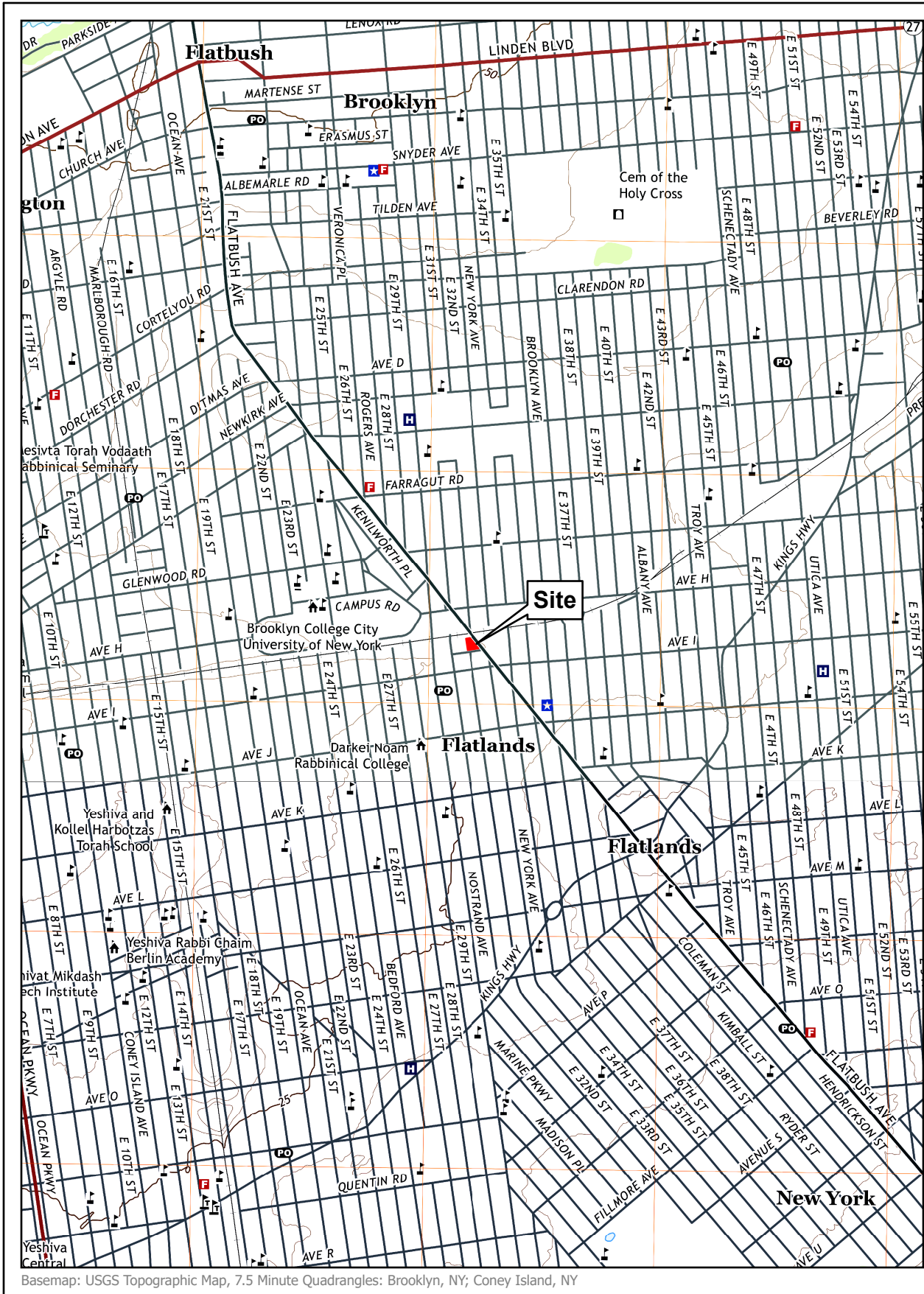
Remedial Action Work Plan, 1640 Flatbush Avenue, Brooklyn, New York, AMC Engineering, PLLC, February 2021

Environmental Easement, 1640 Flatbush OZ Owner LLC, July 2021

Final Engineering Report, 1640 Flatbush Avenue, Brooklyn, New York, Tenen Environmental, LLC, November 2023.

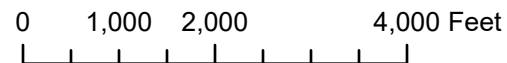
Site Management Plan, 1640 Flatbush Avenue, Brooklyn, New York, Tenen Environmental, LLC, November 2023.

Figures



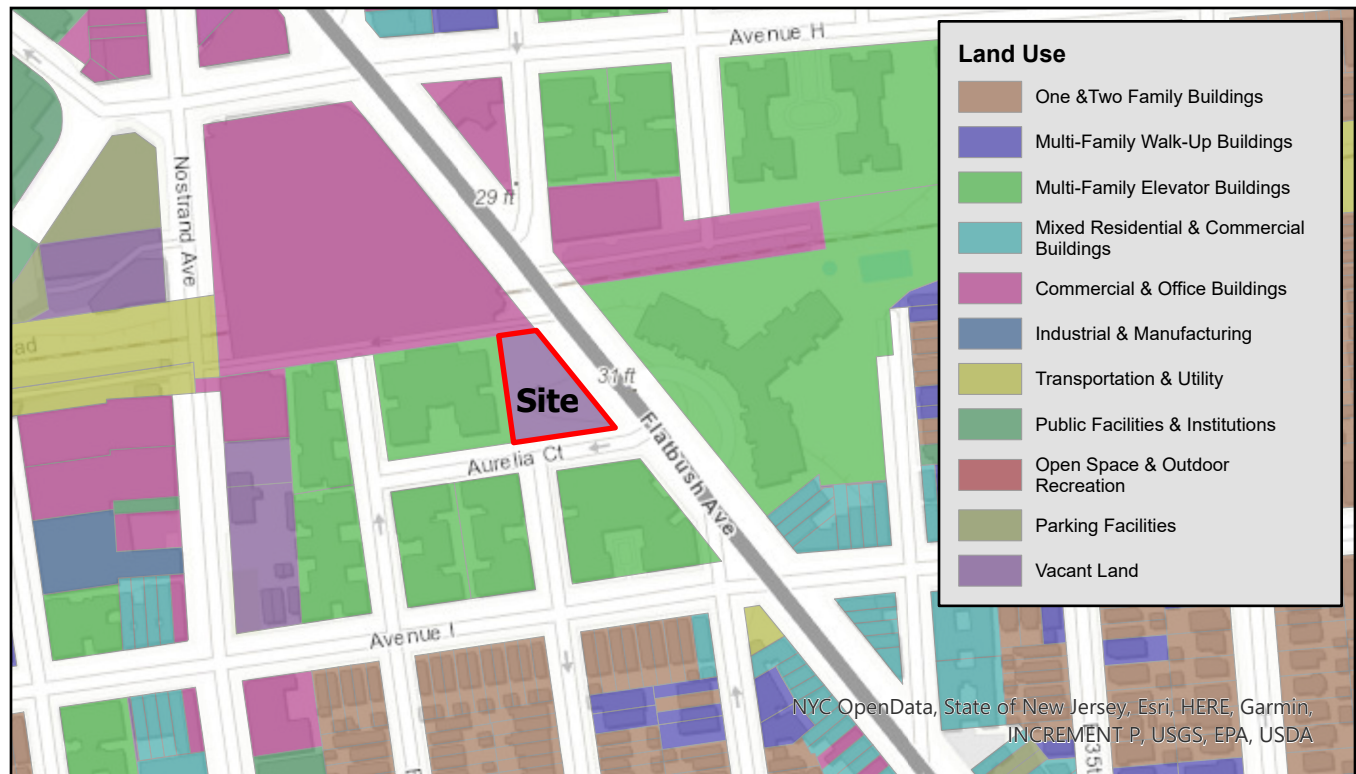
Basemap: USGS Topographic Map, 7.5 Minute Quadrangles: Brooklyn, NY; Coney Island, NY

Site Location

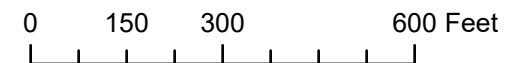


<http://gis.nyc.gov/taxmap/map.htm>

Department of Finance Digital Tax Map



Department of City Planning MapPluto 2023 v1



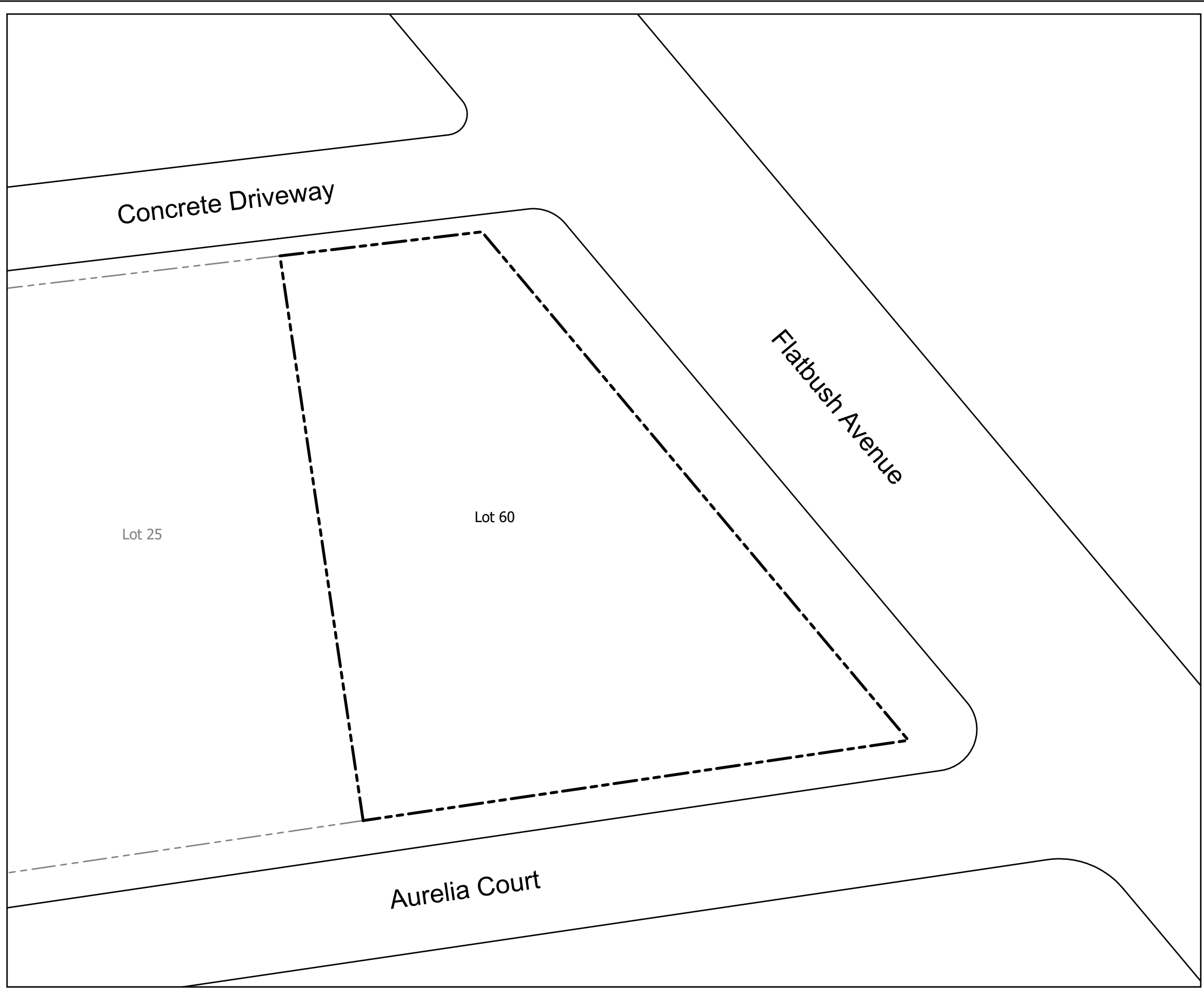
1640 Flatbush Avenue
 Brooklyn, New York
 Block 7577, Lot 60
 BCP Site No. C224212



Tenen Environmental, LLC
 121 West 27th Street, Suite 702
 New York, NY 10001
 O: (646) 606-2332; F: (646) 606-2379

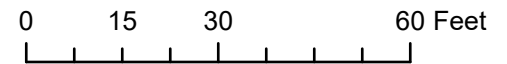
Drawn By	LM
Checked By	CZ
Date	July 2023
Scale	As Noted

Drawing Title	Site Location Map
	Figure 1
Drawing No.	



Legend

-  Site Boundaries
-  NYC Tax Lots



Reference:
NYC Department of City Planning, Information Technology Division

1640 Flatbush Avenue
Brooklyn, New York
Block 7577, Lot 60
BCP Site No. C224212



Tenen Environmental, LLC
121 West 27th Street, Suite 702
New York, NY 10001
O: (646) 606-2332; F: (646) 606-2379

Drawn By	LM
Checked By	CZ
Date	July 2023
Scale	As Noted

Drawing Title	Project Site Map
Drawing No.	Figure 2

Appendix A

IC/EC Certifications and Checklists



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.	C224212		
Site Name 1640 Flatbush Avenue			
Site Address: 1640 Flatbush Avenue Zip Code: 11210			
City/Town: Brooklyn			
County: Kings			
Site Acreage: 0.418			
Reporting Period: December 19, 2023 to April 19, 2025			
		YES	NO
1.	Is the information above correct?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	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?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3.	Has there been any change of use at the site during this Reporting Period (see 6NYCRR 375-1.11(d))?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4.	Have any federal, state, and/or local permits (e.g., building, discharge) been issued for or at the property during this Reporting Period?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	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?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
		Box 2	
		YES	NO
6.	Is the current site use consistent with the use(s) listed below? Restricted-Residential, Commercial, and Industrial	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.	Are all ICs in place and functioning as designed?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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. C224212

Box 3

Description of Institutional Controls

Parcel

7577-60

Owner

1640 Flatbush OZ Owner LLC

Institutional Control

Soil Management Plan
Ground Water Use Restriction
Soil Management Plan
Landuse Restriction
Site Management Plan
IC/EC Plan
Site Management Plan

Imposition of an institutional control in the form of an environmental easement and a Site Management Plan, as described below, will be required. The remedy will achieve a Track 2 restricted residential cleanup at a minimum.

Institutional Control – Imposition of an institutional control in the form of an environmental easement for the controlled property will:

- require the remedial party or site owner to complete and submit to the Department a periodic certification of institutional and engineering controls in accordance with Part 375-1.8 (h)(3);
- allow the use and development of the controlled property for restricted residential use (which allows for commercial or industrial use) as defined by Part 375-1.8(g), although land use is subject to local zoning laws;
- restrict the use of groundwater as a source of potable or process water, without necessary water quality treatment as determined by the NYSDOH or NYCDOH; and
- require compliance with the Department approved Site Management Plan.

Site Management Plan

A Site Management Plan is required, which includes the following:

a. An Institutional and Engineering Control Plan that identifies all use restrictions and engineering controls for the site and details the steps and media-specific requirements necessary to ensure the following institutional and/or engineering controls remain in place and effective:

Institutional Controls: The Environmental Easement discussed in Paragraph 5 above.

Engineering Controls: The contingent Site Cover discussed in Paragraph 7.

This plan includes, but may not be limited to:

- an Excavation Plan which details the provisions for management of future excavations in areas of remaining contamination;
- descriptions of the provisions of the environmental easement including any land use, and groundwater use restrictions;
- a provision for evaluation of the potential for soil vapor intrusion for any occupied buildings on the site, including provision for implementing actions recommended to address exposures related to soil vapor intrusion;
- provisions for the management and inspection of the identified engineering controls;
- maintaining site access controls and Department notification; and
- the steps necessary for the periodic reviews and certification of the institutional and/or engineering controls.

b. A Monitoring Plan to assess the performance and effectiveness of the remedy. The plan includes, but may not be limited to:

- a schedule of monitoring and frequency of submittals to the Department;
- monitoring for vapor intrusion for any buildings on the site, as may be required by the Institutional and Engineering Control Plan discussed above.

Box 4

Description of Engineering Controls

None Required

Not Applicable/No EC's

Box 5

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. C224212

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 Joseph Brunner at 1640 Flatbush AZ corner LLC
print name print business address

am certifying as Manager (Owner or Remedial Party)

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

 J. Brunner 8/19/21
Signature of Owner, Remedial Party, or Designated Representative Date
Rendering Certification

1640 Flatbush Avenue - Brooklyn, NY
BCP Site No. C224212
Site Management - Annual Inspection Checklist

Condition	Field Notes/Observations:
Verify the Site usage is compliant with the allowable uses (restricted-residential, commercial, and industrial)	Site usage is compliant with allowable uses
Describe Site conditions at the time of inspection	Site is occupied by a 13-story mixed-use commercial/residential building with a full cellar.
Verify if ICs in place continue to be protective of human health and the environment	ICs remain in place and continue to be protective of human health and the environment
Verify the Site is compliant with the SMP and Environmental Easement	Site is compliant with SMP and Environmental Easement
Inspect Site records to confirm all records are complete and up to date	Records are complete and up to date

Comments/Notes:

None

Name of inspector:

Honpong Lau

Signature of inspector:

Honpong Lau

Date of inspection:

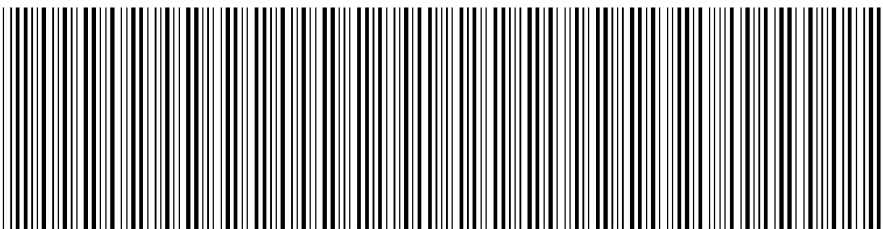
8/19/2025

Appendix B

Environmental Easement

**NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER**

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.



2021070200164001001EDD8D

RECORDING AND ENDORSEMENT COVER PAGE

PAGE 1 OF 10

Document ID: 2021070200164001

Document Date: 06-22-2021

Preparation Date: 07-02-2021

Document Type: EASEMENT

Document Page Count: 9

PRESENTER:

BETTER RECORDINGS, LLC
1 PARAGON DRIVE - RANY-43498
SUITE 150B
MONTVALE, NJ 07645
REC@BETTERTITLERESEARCH.COM

RETURN TO:

BETTER RECORDINGS, LLC
1 PARAGON DRIVE - RANY-43498
SUITE 150B
MONTVALE, NJ 07645
REC@BETTERTITLERESEARCH.COM

PROPERTY DATA

Borough	Block	Lot	Unit	Address
BROOKLYN	7577	60	Entire Lot	1640 FLATBUSH AVENUE
Property Type: NON-RESIDENTIAL VACANT LAND				

CROSS REFERENCE DATA

CRFN _____ or DocumentID _____ or _____ Year _____ Reel _____ Page _____ or File Number _____

PARTIES

GRANTOR/SELLER:

1640 FLATBUSH OZ OWNER LLC
C/O: THE MOINIAN GROUP, 3 COLUMBUS CIRCLE,
26TH FL
NEW YORK, NY 10019

GRANTEE/BUYER:

NEW YORK STATE DEPT OF ENVIRONMENTAL
CONSERVATION
625 BROADWAY
ALBANY, NY 12233

FEES AND TAXES

Mortgage :

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:

\$ 100.00

NYC Real Property Transfer Tax:

\$ 0.00

NYS Real Estate Transfer Tax:

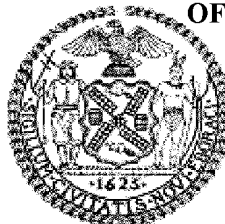
\$ 0.00

**RECORDED OR FILED IN THE OFFICE
OF THE CITY REGISTER OF THE**

CITY OF NEW YORK

Recorded/Filed 07-08-2021 14:00

City Register File No.(CRFN):
2021000259646



Annette McMill

City Register Official Signature

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

THIS INDENTURE made ^{as of} this 22nd day of June, 2021, between Owner, 1640 Flatbush OZ Owner LLC, having an office at c/o The Moinian Group, 3 Columbus Circle, 23rd Floor, New York, New York 10019 (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 1640 Flatbush 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 7577 Lot 60, being the same as that property conveyed to Grantor by deed dated December 30, 2019 and recorded in the City Register of the City of New York as CRFN #202000009096, and by confirmatory deed dated December 30, 2020 and recorded in the City Register of the City of New York as CRFN #2021000044250. The property subject to this Environmental Easement (the "Controlled Property") comprises approximately 0.418 +/- acres, and is hereinafter more fully described in the Land Title Survey dated May 12, 2021 prepared by Richard Tom, L.L.S. of Perfect Point Land Surveying RT, 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: C224212-06-15, 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: C224212
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.

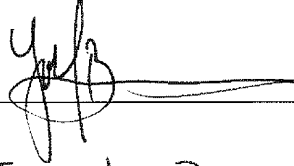
10. Joint Obligation. If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.

11. Consistency with the SMP. To the extent there is any conflict or inconsistency between the terms of this Environmental Easement and the SMP, regarding matters specifically addressed by the SMP, the terms of the SMP will control.

Remainder of Page Intentionally Left Blank

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

1640 Flatbush OZ Owner LLC:

By: 

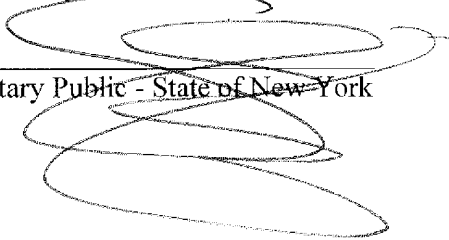
Print Name: Joseph Brunner

Title: Authorized Signatory Date: June 17, 2021

Grantor's Acknowledgment

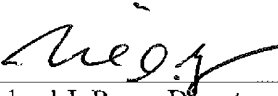
STATE OF NEW YORK)
COUNTY OF New York) ss:

On the 17th day of June, in the year 2021, before me, the undersigned, personally appeared Joseph Brunner, 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

SKYLAH MARIE SANCHEZ
NOTARY PUBLIC-STATE OF NEW YORK
No. 01SA6354093
Qualified in Richmond County
My Commission Expires February 6, 2025

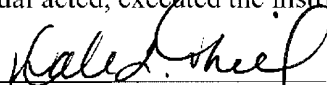
THIS ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY THE PEOPLE OF THE STATE OF NEW YORK, Acting By and Through the Department of Environmental Conservation as Designee of the Commissioner,

By: 
Michael J. Ryan, Director
Division of Environmental Remediation

Grantee's Acknowledgment

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

On the 22nd day of June, in the year 2021 before me, the undersigned, personally appeared Michael J. Ryan, 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

Dale L. Thiel
Notary Public, State of New York
Qualified in Columbia County
No 01TH6414394
Commission Expires February 2/22/2025

SCHEDULE "A" PROPERTY DESCRIPTION

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 at the corner formed by the intersection of the northerly line of Aurelia Court and the westerly line of Flatbush Avenue;

RUNNING THENCE northwesterly, along the westerly line of Flatbush Avenue, 191.82 feet (deed) and 191 feet 10 inches (survey) to a point on the southerly line of land now or formerly of the Long Island Railroad and being the southerly line of tax lot 56 on the Tax Map of the City of New York for the County of Kings;

THENCE westerly along the southerly line of land now or formerly of the Long Island Railroad, and being the division line between the southerly line of tax lot 56 and the northerly line of tax lot 60 on the Tax Map of the City of New York for the County of Kings, which division line is per correction deed in CRFN #2005000276268 filed in the Kings County Register's Office, 58.78 feet (deed) and 61 feet 5.5 inches (survey) to a point;

THENCE southerly at right angles to the last mentioned course and parallel with the easterly side of East 31st Street 165 feet to the northerly side of Aurelia Court;

THENCE easterly along the northerly line of Aurelia Court, 159.30 feet (deed) and 159 feet 3 5/8 inches (survey) to the point or place of BEGINNING.

For Information Only: Said premises are known as 1636-1652 Flatbush Avenue a/k/a 3201-3211 Aurelia Court, Brooklyn, NY and designated as Block 7577 Lot 60 as shown on the Tax Map of the City of New York, County of Kings.

Being the same premises described in the deed to the grantor from Stath Realty Corp., by deed dated as of 3/26/2015 and recorded 4/16/2015 as CRFN 2015000127191.

Containing approximately 0.418 acres more or less.