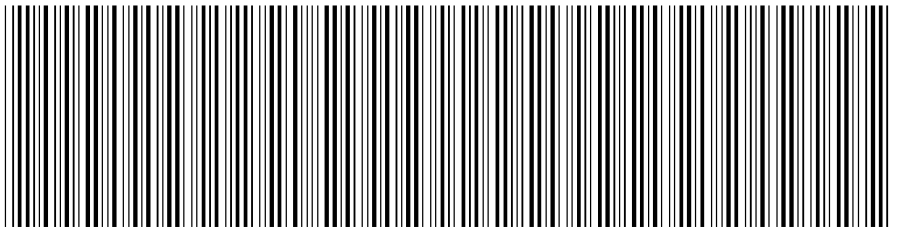


**NYC DEPARTMENT OF FINANCE  
OFFICE OF THE CITY REGISTER**

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.



2022121501214001001EFBA0

**RECORDING AND ENDORSEMENT COVER PAGE**

**PAGE 1 OF 12**

**Document ID: 2022121501214001**

Document Date: 12-12-2022

Preparation Date: 12-15-2022

Document Type: EASEMENT

Document Page Count: 11

**PRESENTER:**

INFINITY LAND SERVICES LLC \*IL11618\*  
AS AGENT FOR OLD REPUBLIC NATIONAL TITLE  
INSURANCE  
2361 NOSTRAND AVENUE, SUITE 802  
BROOKLYN, NY 11210  
718-338-4200

**RETURN TO:**

INFINITY LAND SERVICES LLC \*IL11618\*  
AS AGENT FOR OLD REPUBLIC NATIONAL TITLE  
INSURANCE  
2361 NOSTRAND AVENUE, SUITE 802  
BROOKLYN, NY 11210  
718-338-4200

**PROPERTY DATA**

Borough	Block	Lot	Unit	Address
BROOKLYN	3964	8	Entire Lot	2840 ATLANTIC AVENUE

**Property Type:** COMMERCIAL REAL ESTATE Easement

**CROSS REFERENCE DATA**

CRFN \_\_\_\_\_ or DocumentID \_\_\_\_\_ or \_\_\_\_\_ Year \_\_\_\_\_ Reel \_\_\_\_\_ Page \_\_\_\_\_ or File Number \_\_\_\_\_

**PARTIES**

**GRANTOR/SELLER:**

EMPIRE STATE DAIRY LLC  
3611 14TH AVENUE, SUITE 215  
BROOKLYN, NY 11218

**GRANTEE/BUYER:**

NYS DEPARTMENT OF ENVIRONMENTAL  
CONSERVATION  
625 BROADWAY, 14TH FLOOR  
ALBANY, NY 12233-1500

**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: \$ 92.00

Affidavit Fee: \$ 0.00

**Filing Fee:**

\$ 0.00

NYC Real Property Transfer Tax:

\$ 0.00

NYS Real Estate Transfer Tax:

\$ 0.00

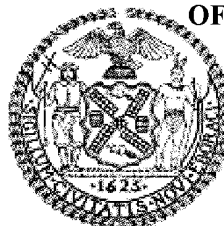
**RECORDED OR FILED IN THE OFFICE  
OF THE CITY REGISTER OF THE**

**CITY OF NEW YORK**

Recorded/Filed 12-20-2022 16:56

City Register File No.(CRFN):

2022000456068



*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 <sup>as of</sup> made this 12<sup>th</sup> day of December, 2022, between Owner, Empire State Dairy LLC, having an office at c/o Bushburg Properties LLC, 3611 14<sup>th</sup> Avenue, Suite 400, Brooklyn, NY 11218 (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 2840 Atlantic 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 3964 Lot 8, being the property conveyed to Grantor by deed dated January 28, 2022 and recorded in the City Register of the City of New York as CRFN 2022000062849.

**WHEREAS**, the property subject to this Environmental Easement (the "Controlled Property") comprises approximately 1.0009 +/- acres, and is hereinafter more fully described in the Land Title Survey dated July 2, 2018 and last revised November 18, 2022 prepared by Vincent M. Teutonico, Registration No. 050307, 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 No. C224255-11-17, 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) A .9605 +/- portion of the Controlled Property, as described in Schedule B, may be used for:

**Unrestricted Use as described in 6 NYCRR Part 375-1.8 (g)(1)(i); Residential as described in 6 NYCRR Part 375-1.8(g)(2)(i), 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) A .0403-acre +/- portion of the Controlled Property, as described in Schedule C, 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);**

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

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

(6) The use of groundwater underlying the property is prohibited without necessary water quality treatment as determined by the NYSDOH or the Kings County

Department of Health 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;

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

(8) 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;

(9) All future activities on the property that will disturb remaining contaminated material must be conducted in accordance with the SMP;

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

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

(12) 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.

C. The .403-acre +/- portion of the Controlled Property described in Schedule C shall be used for any of the uses provided in Section 2.A.2 herein, including but not limited to Restricted Residential use as described in 6NYCRR Part 375-1.8(g)(2)(ii) but 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.

E. 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

F. 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.

G. 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.**

H. 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.

I. 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:



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.

Empire State Dairy LLC:

By: 

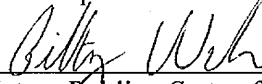
Print Name: Abraham J Hoffman

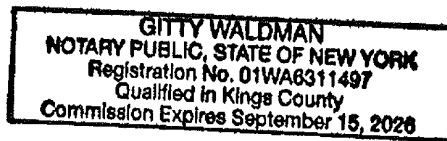
Title: Member Date: 12/6/22

**Grantor's Acknowledgment**

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

On the 6<sup>th</sup> day of December, in the year 20 22, before me, the undersigned, personally appeared Abraham J Hoffman, 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





**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: Andrew Guglielmi  
Andrew O. Guglielmi, Director  
Division of Environmental Remediation

**Grantee's Acknowledgment**

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

On the 12<sup>th</sup> day of December, in the year 2022 before me, the undersigned, personally appeared Andrew O. Guglielmi, 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.

Jennifer Andoloro  
Notary Public - State of New York

JENNIFER ANDALORO  
Notary Public, State of New York  
No. 02AN6098246  
Qualified in Albany County  
Commission Expires January 14, 2024

**SCHEDULE "A" PROPERTY DESCRIPTION**

ALL that certain plot, piece or parcel of land, situated, lying and being in the Borough of Brooklyn, County of Kings, City and State of New York, bounded and described as follows:

BEGINNING at the southeasterly corner of Atlantic Avenue and Schenck Avenue;

RUNNING THENCE southerly along the easterly side on Schenck Avenue, 235 feet;

THENCE easterly at right angles to Schenck Avenue, 100 feet;

THENCE northerly parallel with Schenck Avenue, 50 feet;

THENCE easterly at right angles to Schenck Avenue, 100 feet to the westerly side of Barbey Street;

THENCE northerly along the westerly side of Barbey Street, 201 feet to the southwesterly corner of Atlantic Avenue and Barbey Street;

THENCE westerly along the southerly side of Atlantic Avenue 200 feet 8 inches (deed) 200 feet 7 5/8 inches (survey) to the point or place of BEGINNING.

FOR INFORMATION PURPOSES ONLY, 2840 Atlantic Avenue, Brooklyn, NY 11207 a/k/a Block 3964 lot 8 on the KINGS County Tax Map.

For conveyancing only:

TOGETHER with all the right, title and interest of the party of the first part, of, in and to the land lying in the street in front of and adjoining said premises.

AREA- 43,600 SQ. FT. -1,0009 ACRE

**SCHEDULE "B" – UNRESTRICTED USE (CONDITIONAL TRACK 1)  
EASEMENT AREA**

ALL that certain plot, piece or parcel of land, situated, lying and being in the Borough of Brooklyn, County of Kings, City and state of New York, bounded and described as follows:

BEGINNING at the southeasterly corner of Atlantic Avenue and Schenck Avenue;

RUNNING THENCE southerly along the easterly side on Schenck Avenue, 235 feet;

THENCE easterly at right angles to Schenck Avenue, 100 feet;

THENCE northerly parallel with Schenck Avenue, 50 feet;

THENCE easterly at right angles to Schenck Avenue, 100 feet to the westerly side of Barbey street;

THENCE northerly along the westerly side of Barbey Street, 92 feet 11 inches to a point on the westerly side of Barbey Street;

THENCE westerly at right angles to Barbey Street 63 feet 5 inches;

THENCE northerly and parallel with Barbey Street 27 feet 9 inches;

THENCE easterly and at right angles with Barbey Street 63 feet 5 inches;

THENCE northerly along the westerly side of Barbey Street 80 feet 4 inches to intersection of the westerly side of Barbey Street and the southerly side of Atlantic Avenue;

THENCE westerly along the southerly side of Atlantic Avenue 200 feet B inches (deed) 200 feet 7 5/8 inches (survey) to the point or place of BEGINNING.

FOR INFORMATION PURPOSES ONLY, 2840 Atlantic Avenue, Brooklyn, NY 11207 a/k/a Block 3964 lot 8 on the KINGS County Tax Map.

AREA- 41,840.35 SQ. FT. 0.09605 ACRE

**SCHEDULE "C" RESTRICTED RESIDENTIAL (TRACK 4)  
EASEMENT AREA**

ALL that certain plot, piece or parcel of land, situated, lying and being in the Borough of Brooklyn, County of Kings, City and state of New York, bounded and described as follows:

BEGINNING at the intersection of the westerly side of Barbey Street and the southerly side of Atlantic Avenue;

RUNNING THENCE southerly along the westerly side of Barbey Street 80 feet 4 inches;

THENCE westerly and at right angles to Barbey Street 63 feet 4 inches;

THENCE southerly and parallel with Barbey Street 27 feet 9 inches;

THENCE easterly and at right angles to Barbey Street 63 feet 5 inches;

THENCE northerly along the westerly side of Barbey Street 27 feet 9 inches to the point or place of BEGINNING.

AREA- 1,759.64 SQ. FT. -0.0403 ACRE