

SIVE | PAGET | RIESEL

DANIEL GOLDBERG-GRADESS
DIRECT DIAL: 646.378.7266
DGOLDBERG-GRADESS@SPRLAW.COM

December 5, 2023

VIA FED EX AND FTS

Environmental Easement Attorney Bureau of Remediation
Office of General Counsel, 14th Floor
New York State Dept. of Environmental Conservation
625 Broadway
Albany, NY 12233-1500

Re: Brownfield Cleanup Program
1045-1065 Atlantic Avenue, Brooklyn, a/k/a 1041-1067 Atlantic
Avenue, Brooklyn
DEC Site name: Atlantic Brooklyn Project
DEC Site No.: C224305

Proofs of Recording and Mailing of Municipal Notice of
Environmental Easement

Dear Sir or Madam,

Enclosed please find the following documents that are being submitted to the Department as proofs that the environmental easement for the above-referenced BCP Site has been recorded in the New York City Register and that the Municipal Notice of Environmental Easement has been mailed to the affected local government:

- 1) Environmental Easement for 1045-1065 Atlantic Avenue, Brooklyn, a/k/a 1041-1067 Atlantic Avenue, Brooklyn, Block 2020, Lot 68, dated November 10, 2023, and recorded in the Office of the City Register of the City of New York ("City Register") on November 21, 2023, as City Register File Number ("CRFN") 2023000304718;
- 2) Copy of the Municipal Notice of Environmental Easement that was sent via United States Postal Service ("USPS") certified mail, return receipt requested, to New York City Mayor Eric Adams on December 5, 2023;
- 3) Scanned copy of the USPS certified mailing slip for the Municipal Notice of Environmental Easement sent to Mayor Adams.

Electronic (PDF) copies of the enclosed documents have also been uploaded to the Department's File Transfer Service ("FTS") portal and were directed to Ms. Cheryl Salem of the Office of General Counsel ("OGC").

[Title]
December 5, 2023
Page 2 of 2

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Goldberg-Gradess', with a long horizontal flourish extending to the right.

Daniel Goldberg-Gradess
Attorney for Petitioner

SIVE | PAGET | RIESEL

DANIEL GOLDBERG-GRADESS

DIRECT DIAL: 646.378.7266

DGOLDBERG-GRADESS@SPRLAW.COM

November 28, 2023

VIA CERTIFIED MAIL

Mayor Eric Adams
City Hall
New York, NY 10007

Re: Notice of Environmental Easement:
1045-1065 Atlantic Avenue, Brooklyn, a/k/a 1041-1067
Atlantic Avenue, Brooklyn
Block 2020, Lot 68
DEC Site name: Atlantic Brooklyn Project
DEC Site No.: C224305

Dear Mayor Eric Adams,

Attached please find a copy of an Environmental Easement granted to the New York State Department of Environmental Conservation (“Department”) on November 10, 2023, by 1065 Atlantic Ave., LLC (“Grantor”) for property located at 1045-1065 Atlantic Avenue, Brooklyn, a/k/a 1041-1067 Atlantic Avenue, Brooklyn, Block 2020, Lot 68, known as DEC Site No. C224305 and by the DEC Site name, The Atlantic Brooklyn Project.

This Environmental Easement restricts future use of the above referenced property to restricted residential use. Any on-site activity must be done in accordance with the Environmental Easement and Site Management Plan, which is incorporated into the Environmental Easement. Department approval is also required prior to any groundwater use. Article 71, Section 71-3607 of the New York State Environmental Conservation Law requires that:

1. Whenever the Department is granted an Environmental Easement, it shall provide each affected local government with a copy of such Easement and shall also provide a copy of any documents modifying or terminating such Environmental Easement.
2. Whenever an affected local government receives an application for a building permit or any other application affecting land use or development of land that is subject to an Environmental Easement and that may relate to or impact such Easement, the affected local government shall notify the Department and refer such application to the Department. The Department shall evaluate whether the application is consistent with the Environmental Easement, and shall notify the

[Title]

November 28, 2023

Page 2 of 2

affected local government of its determination in a timely fashion, considering the time frame for the local government's review of the application. The affected local government shall not approve the application until it receives formal approval from the Department.

An electronic version of every Environmental Easement that has been accepted by the Department is available to the public at: <http://www.dec.ny.gov/chemical/36045.html>. Please forward this notice to your Building and/or Planning Departments, as applicable, to ensure your compliance with the provisions of the New York State Environmental Conservation Law. If you have any questions or comments regarding this matter, please do not hesitate to contact me.

Best regards,

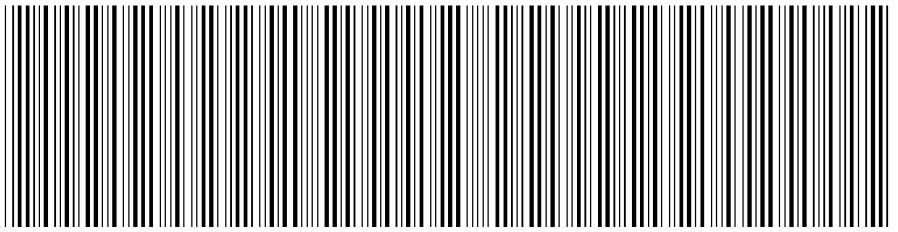


Daniel Goldberg-Gradess

Enclosure

**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.



2023111601223001001EBFE2

RECORDING AND ENDORSEMENT COVER PAGE

PAGE 1 OF 10

Document ID: 2023111601223001

Document Date: 11-10-2023

Preparation Date: 11-16-2023

Document Type: EASEMENT

Document Page Count: 9

PRESENTER:

SIVE PAGET & RIESEL, P.C.
560 LEXINGTON AVENUE, 15TH FLOOR
NEW YORK, NY 10022
212-421-2150
NDUNCAN@SPRLAW.COM

RETURN TO:

SIVE PAGET & RIESEL, P.C.
560 LEXINGTON AVENUE, 15TH FLOOR
NEW YORK, NY 10022
212-421-2150
NDUNCAN@SPRLAW.COM

PROPERTY DATA

Borough	Block	Lot	Unit	Address
BROOKLYN	2020	68	Entire Lot	1065 ATLANTIC AVENUE
Property Type: COMMERCIAL REAL ESTATE Easement				

CROSS REFERENCE DATA

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

PARTIES

GRANTOR/SELLER:

1065 ATLANTIC AVENUE LLC
42-09 235TH STREET
DOUGLSTON, NY 10363

GRANTEE/BUYER:

PEOPLE OF STATE OF NEW YORK BY DEPT.
ENVIRONMENTAL
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 11-21-2023 12:04

City Register File No.(CRFN):

2023000304718



Colette McChia-Jacques

City Register Official Signature

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

THIS INDENTURE made this 10th day of November, 2023, between Owner, 1065 Atlantic Avenue LLC, having an office at 7 Penn Plaza, Suite 600, New York, NY 10001 (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 1045 – 1065 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 2020 Lot 68, being the same as that property conveyed to Grantor by deed dated May 26, 2023, and recorded in the City Register of the City of New York as CRFN # 2023000139221. The property subject to this Environmental Easement (the "Controlled Property") comprises approximately 1.081 +/- acres, and is hereinafter more fully described in the Land Title Survey dated May 25, 2023 prepared by Arkadiusz Jusiega, P.L.S. (License No. 050569), Arek Surveying P.C., 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: C224305-06-20, 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: C224305
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.

1065 Atlantic Avenue LLC:

By: Jed Resnick

Print Name: Jed Resnick

Title: Authorized Signatory Date: October 26, 2023

Grantor's Acknowledgment

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

On the 26th day of October, in the year 20 23, before me, the undersigned, personally appeared Jed Resnick, 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.

[Signature]
Notary Public - State of New York

CLAUDIA HOANG
NOTARY PUBLIC-STATE OF NEW YORK
No. 01HO6443533
Qualified in Queens County
My Commission Expires 11-07-2026

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 10th day of November in the year 2023 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.

Cheryl A. Salem
Notary Public - State of New York

Cheryl A. Salem
Notary Public State of New York
Registration No. 01SA0002177
Qualified in Albany County
My Commission Expires March 3, 2027

SCHEDULE "A" PROPERTY DESCRIPTION

Borough of Brooklyn, Block: 2020, Lot: 68 (Former Lots 68, 70, 73, 74 & 77)

Environmental Easement Area:

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 northerly side of Atlantic Avenue, distant 182 feet 10 inches westerly from the corner formed by the intersection of the northerly side of Atlantic Avenue with the westerly side of Franklin Avenue;

RUNNING THENCE northerly at right angles to Atlantic Avenue, 84 feet 2 inches;

THENCE northwesterly forming an interior angle of 156 degrees 00 minutes 22 seconds with the preceding course, a distance of 41 feet 2 inches;

THENCE southwesterly forming an interior angle of 94 degrees 18 minutes 25 seconds with the preceding course, a distance of 11 feet 2-5/8 inches;

THENCE westerly forming an exterior angle of 160 degrees 18 minutes 47 seconds with the preceding course, and parallel with Atlantic Avenue, a distance of 170 feet 7-3/4 inches;

THENCE northerly at right angles with the preceding course, a distance of 20 feet 0 inches;

THENCE westerly parallel with Atlantic Avenue, a distance of 180 feet 0 inches;


THENCE southerly at right angles with the preceding course, a distance of 19 feet 0 inches;

THENCE easterly parallel with Atlantic Avenue, a distance of 7 feet 3 inches;


THENCE southerly at right angles to Atlantic Avenue, a distance of 199 feet 0 inches to the northerly side of Atlantic Avenue;

THENCE easterly along the northerly side of Atlantic Avenue, a distance of 370 feet 8-1/2 inches, to the point or place of BEGINNING.

Area: 47,103.8 Square Feet, 1.0814 Acres

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) _____ C. Date of Delivery _____</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>1. Article Addressed to:</p> <p><i>Mayor Eric Adams City Hall New York, N.Y. 10007</i></p>  <p>9590 9402 5839 0038 9436 42</p>	<p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Registered Mail™ <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Insured Mail <input type="checkbox"/> Signature Confirmation Restricted Delivery <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</p>
<p>2. Article Number (Transfer from service label)</p> <p>7019 2280 0001 0227 1754</p>	
PS Form 3811, July 2015 PSN 7530-02-000-9053	Domestic Return Receipt

USPS TRACKING#



9590 9402 5839 0038 9436 42

First-Class Mail
 Postage & Fees Paid
 USPS
 Permit No. G-10

United States Postal Service

* Sender: Please print your name, address, and ZIP+4® in this box*


D. Goldberg-Gradess
 Sive, Paget & Riesel, P.C.
 560 Lexington Avenue
 15th Floor
 New York, NY 10022

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
 Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS. FOLD AT DOTTED LINE.

CERTIFIED MAIL®



7019 2280 0001 0227 1754
 7019 2280 0001 0227 1754

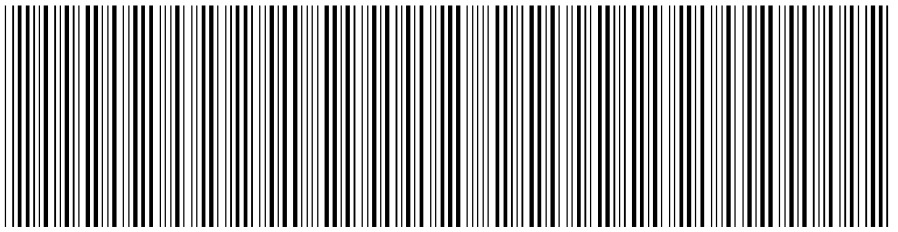
Certified Mail Fee	\$ _____
Extra Services & Fees (check box, add fee as appropriate)	
<input checked="" type="checkbox"/> Return Receipt (hardcopy)	\$ _____
<input type="checkbox"/> Return Receipt (electronic)	\$ _____
<input type="checkbox"/> Certified Mail Restricted Delivery	\$ _____
<input type="checkbox"/> Adult Signature Required	\$ _____
<input type="checkbox"/> Adult Signature Restricted Delivery	\$ _____
Postage	\$ _____
Total Postage and Fees	\$ _____

Sent To: *Mayor ERIC ADAMS*
 Street and Apt. No., or PO Box No.: *CITY HALL*
 City, State, ZIP+4: *New York, N.Y. 10007*

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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

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2023111601223001001EBFE2

RECORDING AND ENDORSEMENT COVER PAGE

PAGE 1 OF 10

Document ID: 2023111601223001

Document Date: 11-10-2023

Preparation Date: 11-16-2023

Document Type: EASEMENT

Document Page Count: 9

PRESENTER:

SIVE PAGET & RIESEL, P.C.
560 LEXINGTON AVENUE, 15TH FLOOR
NEW YORK, NY 10022
212-421-2150
NDUNCAN@SPRLAW.COM

RETURN TO:

SIVE PAGET & RIESEL, P.C.
560 LEXINGTON AVENUE, 15TH FLOOR
NEW YORK, NY 10022
212-421-2150
NDUNCAN@SPRLAW.COM

PROPERTY DATA

Borough	Block	Lot	Unit	Address
BROOKLYN	2020	68	Entire Lot	1065 ATLANTIC AVENUE
Property Type: COMMERCIAL REAL ESTATE Easement				

CROSS REFERENCE DATA

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

PARTIES

GRANTOR/SELLER:

1065 ATLANTIC AVENUE LLC
42-09 235TH STREET
DOUGLSTON, NY 10363

GRANTEE/BUYER:

PEOPLE OF STATE OF NEW YORK BY DEPT.
ENVIRONMENTAL
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

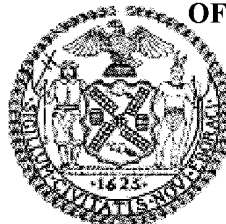
**RECORDED OR FILED IN THE OFFICE
OF THE CITY REGISTER OF THE**

CITY OF NEW YORK

Recorded/Filed 11-21-2023 12:04

City Register File No.(CRFN):

2023000304718



Colette McChia-Jacques

City Register Official Signature

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

THIS INDENTURE made this 10th day of November, 2023, between Owner, 1065 Atlantic Avenue LLC, having an office at 7 Penn Plaza, Suite 600, New York, NY 10001 (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 1045 – 1065 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 2020 Lot 68, being the same as that property conveyed to Grantor by deed dated May 26, 2023, and recorded in the City Register of the City of New York as CRFN # 2023000139221. The property subject to this Environmental Easement (the "Controlled Property") comprises approximately 1.081 +/- acres, and is hereinafter more fully described in the Land Title Survey dated May 25, 2023 prepared by Arkadiusz Jusiega, P.L.S. (License No. 050569), Arek Surveying P.C., 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: C224305-06-20, 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: C224305
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.

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

1065 Atlantic Avenue LLC:

By: Jed Resnick

Print Name: Jed Resnick

Title: Authorized Signatory Date: October 26, 2023

Grantor's Acknowledgment

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

On the 26th day of October, in the year 20 23, before me, the undersigned, personally appeared Jed Resnick, 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.

[Signature]
Notary Public - State of New York

CLAUDIA HOANG
NOTARY PUBLIC-STATE OF NEW YORK
No. 01HO6443533
Qualified in Queens County
My Commission Expires 11-07-2026

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 10th day of November in the year 2023 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.

Cheryl A. Salem
Notary Public - State of New York

Cheryl A. Salem
Notary Public State of New York
Registration No. 01SA0002177
Qualified in Albany County
My Commission Expires March 3, 2027

SCHEDULE "A" PROPERTY DESCRIPTION

Borough of Brooklyn, Block: 2020, Lot: 68 (Former Lots 68, 70, 73, 74 & 77)

Environmental Easement Area:

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 northerly side of Atlantic Avenue, distant 182 feet 10 inches westerly from the corner formed by the intersection of the northerly side of Atlantic Avenue with the westerly side of Franklin Avenue;

RUNNING THENCE northerly at right angles to Atlantic Avenue, 84 feet 2 inches;

THENCE northwesterly forming an interior angle of 156 degrees 00 minutes 22 seconds with the preceding course, a distance of 41 feet 2 inches;

THENCE southwesterly forming an interior angle of 94 degrees 18 minutes 25 seconds with the preceding course, a distance of 11 feet 2-5/8 inches;

THENCE westerly forming an exterior angle of 160 degrees 18 minutes 47 seconds with the preceding course, and parallel with Atlantic Avenue, a distance of 170 feet 7-3/4 inches;

THENCE northerly at right angles with the preceding course, a distance of 20 feet 0 inches;

THENCE westerly parallel with Atlantic Avenue, a distance of 180 feet 0 inches;

THENCE southerly at right angles with the preceding course, a distance of 19 feet 0 inches;

THENCE easterly parallel with Atlantic Avenue, a distance of 7 feet 3 inches;

THENCE southerly at right angles to Atlantic Avenue, a distance of 199 feet 0 inches to the northerly side of Atlantic Avenue;

THENCE easterly along the northerly side of Atlantic Avenue, a distance of 370 feet 8-1/2 inches, to the point or place of BEGINNING.

Area: 47,103.8 Square Feet, 1.0814 Acres