



**SITE MANAGEMENT PLAN
FOR
FORMER KIPS BAY FUEL TERMINAL
616 FIRST AVENUE
NEW YORK, NEW YORK**

**NYSDEC BROWNFIELD CLEANUP PROGRAM
Site Number C231014**

Prepared by

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TRC Project No. 180360

September 2011

Revisions to Final Approved Site Management Plan:

Revision #	Submitted Date	Summary of Revision	DEC Approval Date

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1.0 INTRODUCTION AND PURPOSE

This document is required as an element of the remedial program at the Kips Bay Fuel Terminal Site (hereinafter referred to as the "Site") under the New York State Brownfield Cleanup Program (BCP) administered by the New York State Department of Environmental Conservation (NYSDEC). The Site was remediated in accordance with Voluntary Cleanup Order (VCO) Index #D2-0001-01-03; Site #V00430-2, which was executed on June 27, 2001. This agreement was later superseded by Brownfield Cleanup Agreement (BCA) Index# A2-0515-0405, Site #C231014, which was executed by the NYSDEC on June 16, 2010.

The former Kips Bay Fuel Terminal Site at 616 First Avenue, New York, New York is a 1.6-acre vacant property currently owned by 616 First Realty Company LLC and the New York City School Construction Authority. The location of the property is shown on Figure 1. The Site was characterized during several previous investigations and remediation of the Site was completed in accordance with the New York State Department of Environmental Conservation (NYSDEC)-approved *Supplemental Soil Investigation Final Report and Remediation Work Plan* dated August 2003 (RWP) and *Final Report for Kips Bay Fuel Terminal Remediation Work Plan* dated March 2006 (Final Report).

As part of the remediation, all Site soil was removed vertically to a depth slightly below Development Depth. As soil excavation proceeded along the property sidewalls, TRC placed imported clean sand from Amboy Aggregates along the property boundaries to maintain a safe excavation perimeter sloping in accordance with NYCDOB and OSHA requirements. Excavated soil from the sidewalls was temporarily stockpiled on-site until it was transported to an appropriate off-site disposal facility. Imported sand was backfilled and compacted, extending five feet inside the property line and graded down to the Development Depth at a slope of 1.5/1.

The remainder of the Site was backfilled with 6 to 12 inches of imported 1.5-inch crushed stone from Tilcon New York, Inc., West Nyack, New York. Approximately 2,030 tons of stone were used to backfill the Site. Stone was used rather than sand in order to provide a more secure base for vehicular site access and to assist in avoiding surficial ponding of precipitation.

This Site Management Plan ("SMP") primarily establishes the procedures for the management of soil and groundwater generated from below Development Depth, if any, during future construction activities associated with Site redevelopment. As presented in the Final Report and consistent with TRC's contract with the Site Developer, the Development Depth is defined as the

depth to the top of competent bedrock or the mean high water table (-0.4 feet in the Manhattan Highway Datum), whichever is higher. A figure showing the Site boundaries to which the SMP applies and the current property ownership is provided in Appendix A.

This plan is not intended to serve as a design document for the construction activities related to redevelopment activities. It is the owners' or owner designee's responsibility to prepare a design that incorporates the requirements for cover and soil/groundwater management as set forth in this SMP.

Failure to implement the SMP is a violation of the Environmental Easement, which is grounds for revocation of the Certificate of Completion. Failure to comply with the SMP is also a violation of Environmental Conservation Law, 6 NYCRR Part 375 and the BCA (Index #A2-0515-0405, Site #C231014) for the Site, and thereby subject to applicable penalties.

1.1 Overview and Objectives

The objective of the SMP is to set guidelines for management of soil and groundwater generated from below Development Depth during any future redevelopment activities, and to identify periodic reporting requirements.

The SMP establishes the procedures for the following activities:

1. Soil disturbance activities below Development Depth
2. Groundwater dewatering, if required,
3. Management of excavated soil and dewatered groundwater,
4. Management of new fill material,
5. Site-specific health and safety requirements during construction,
6. Notification of Change in Use of Property, and
7. Notification and reporting.

The SMP does not require groundwater and other environmental monitoring, public health monitoring, or monitoring to assess the effectiveness of the remedy. However, periodic inspections must be performed to assess the performance and effectiveness of the remedy.

1.2 Site History

The Site consists of a 340-by-200-foot rectangular-shaped lot. The Site is bordered by East 36th Street to the north, the Franklin D. Roosevelt (FDR) Drive to the east, East 35th Street to the south, and First Avenue to the west.

The area around the Site contains a mix of commercial and residential establishments. High-rise residential buildings are located on blocks immediately to the north and south of the Site. The New York University (NYU) Medical Center and Bellevue Hospital occupy city blocks to the south of the property. St. Vartan's Park is located to the west of the Site.

The Site was initially operated solely as a lumber and coal/wood yard, with various sheds, until 1899. By 1910, a one-story building occupied by the Liquid Carbonic Company had replaced the coal yard on the northern end of the Site. The remainder of the Site continued to be used as a lumberyard until circa 1926 when the New York Steam Corporation built a steam plant on the eastern side of the Site. At that time, the western end of the Site was vacant, and a Provision Factory had replaced the Liquid Carbonic Company as the occupant of the one-story building at the northernmost end of the Site. A 1950 historic Sanborn Map shows that the New York Steam Corporation occupied the entire Site, except for the southwest corner which was vacant. Coal, transported via a conveyor over the FDR Drive, provided fuel to the Steam Plant.

By 1980, the on-site steam plant occupied only the east side of the property, and the plant owner had become Con Edison Company, Incorporated. Three structures associated with underground fuel oil storage tanks, several transformers and vapor vents were present on the west side of the property. Much of the northwestern end of the Site was vacant. Historic Sanborn Maps from approximately 1950-1994 show the current on-site structures located on the western side of the property and the Steam Plant on the eastern side of the property. In the 1996 Historic Sanborn Map, the Steam Plant had been razed and the east end of the Site was shown to be vacant. Demolition of the steam plant began in 1987 and was completed circa 1994.

The Kips Bay Fuel Terminal stored fuel oil in a 255,000-gallon underground tank and served as a back-up fuel depot for the natural gas-powered steam boilers at Con Edison's Waterside Generating Station.

In 2005 616 First Realty Company LLC acquired the Site from Con Edison and in December of 2009 the New York City School Construction Authority acquired a portion of the Site (Block 967, Lot 2) for construction of a new elementary school.

2.0 PREVIOUS INVESTIGATIONS

2.1 Chronology

Several environmental investigations were performed at the property since 1998. The following reports present a chronological summary of the significant investigations performed at the property.

Phase I Environmental Site Assessment, Kips Bay Fuel Oil Terminal, Manhattan, NY, Foster Wheeler Environmental Corporation, September 14, 1998.

Phase II Environmental Site Assessment, Kips Bay Fuel Oil Terminal, 417 East 35th Street, New York, New York, GZA GeoEnvironmental, Inc., March 15, 2000.

Supplemental Soil Investigation Final Report and Remediation Work Plan, Kips Bay Fuel Terminal 616 First Avenue, New York, New York, TRC Engineers, Inc., August 2003.

Environmental remediation was completed at the property in August 2004, as documented in the following report:

Final Report for Kips Bay Fuel Terminal Remediation Work Plan, TRC Engineers, March 2006.

Copies of these reports can be found at NYSDEC's Albany Office and at the BCP document repository at the Science, Industry and Business branch of the New York City Public Library, located at 188 Madison Avenue, Manhattan.

2.2 Nature and Extent of Contamination

The remediation completed at the Site, as reported in the Final Report, resulted in the removal of all soil above the Development Depth. The Site was partially backfilled above Development Depth with clean sand meeting TAGM 4046 requirements and clean crushed stone. The constituents of potential concern (COPCs) for soil remaining at the Site below Development Depth consist primarily of metals and polycyclic aromatic hydrocarbons (PAHs). Results of groundwater sampling indicate that constituents in the soil below Development Depth have not significantly impacted groundwater quality. However, bedrock groundwater at the Site contains several volatile organic compounds (VOCs), each at concentrations slightly above NYSDEC Technical and Operational Guidance Series (TOGS) Ambient Water Quality Standards.

3.0 CONTEMPLATED USE

The objective of the RWP activities was to ready the Site for development for the Contemplated Use (i.e., residential and commercial development) in accordance with Track 4, restricted residential use with site-specific soil cleanup objectives (see 6 NYCRR Part 375-3.8(e)). During the remediation, all materials above the Development Depth were removed and disposed off-site. Activities that will disturb materials below the Development Depth must be conducted in accordance with this SMP and the Site is subject to the institutional controls set forth in the Environmental Easements attached hereto as Appendix F.

The Notification requirements of Section 8.0 of this SMP will be triggered by any change of use, including transfer of the title to all or part of the Site, or the erection of structures on the Site.

4.0 SUMMARY OF REMEDY IMPLEMENTED

As presented in the Final Report, the following remedial activities were completed to ready the Site for the Contemplated Use:

- Asbestos abatement, decommissioning and demolition of all buildings and subsurface structures to Development Depth;
- Removal of the 255,000-gallon UST and the concrete-lined ash pit;
- Excavation and disposal of all impacted soils and solids from the ash pit;
- Excavation and disposal of petroleum- and PCB-impacted soil;
- Excavation and disposal of all soil above Development Depth;
- Evaluation of groundwater conditions within the bedrock and shallow aquifer by installation and sampling of three bedrock monitoring wells and two shallow aquifer monitoring wells for VOCs, PAHs and metals;
- Close-out of all open NYSDEC spill numbers for previously-reported on-site impacts; and,
- Two feet of compacted clean soil meeting TAGM 4046. See Section 5.4 for a description of the future cover system for the Site.

As per the NYSDEC letters dated June 13, 2006 and July 28, 2006 (Appendix B) approving Site remediation and the Final Report, the Site meets the standards for development for the Contemplated Use.

In summary, all soils at the Site were removed to Development Depth; therefore, only those activities which will disturb soils and/or groundwater below Development Depth are governed by this SMP.

5.0 REMEDY MANAGEMENT/LONG TERM MAINTENANCE

Site redevelopment may disturb certain areas of the Site below Development Depth. Implementation of the SMP relative to these activities will be the responsibility of the property owner or owner's designee.

5.1 Site Preparation

As part of redevelopment or future intrusive on-site activities, the Site may require grading prior to construction of final Site structures and cover. Soil above Development Depth does not require any special handling for Site preparation activities.

5.2 Erosion and Dust Control

Silt fencing and hay bales will be utilized, as required, to prevent soils from below Development Depth from leaving the Site. Soil from below Development Depth adhered to construction vehicles and equipment will be removed prior to such vehicles and equipment leaving the Site. Brooms, shovels, washing or steam cleaning will be utilized for the removal of such soil from vehicles and equipment. Soil or construction debris from below Development Depth will be removed from vehicles and equipment at a designated area of the Site. Wastewater generated by the decontamination process for materials generated below Development Depth will be collected and analyzed for waste characterization and off-site disposal.

If required, dust suppression measures will be implemented during soil disturbance activities below Development Depth, and will include misting of soil and/or construction debris with water and, if appropriate, applying a dust suppressant, in high vehicle traffic areas. To evaluate the effectiveness of the dust suppression measures, dust particulate levels will be monitored utilizing real-time dust monitoring instrumentation as per the New York State Department of Health (NYSDOH) Generic Community Air Monitoring Plan (gCAMP; Appendix C).

5.3 Excavation Below Development Depth

The property owner or owner's designee will provide NYSDEC with notification of activities that disturb soil below Development Depth or generate dewatering fluids as per the notification requirements presented in Section 8.0 of this SMP. Access to soil/fill on the property will be controlled until final cover is placed to prevent direct contact with soils below Development Depth.

5.3.1 Management of Soil and Other Potential Solid Waste

The area of the Site where soil exists below the Development Depth is shown in Appendix D. Excavated soil and other potential solid waste (i.e., concrete rubble, remnants of former foundation piles, etc.) from below Development Depth will be stockpiled separately from other construction materials at the Site. Excavated soil will be temporarily stockpiled on plastic and covered with plastic or placed in a covered roll-off in a prepared area of the Site. Excavation below Development Depth will be overseen by a person who will provide the requisite annual certification.

Soil temporarily excavated from below Development Depth may be placed below Development Depth again during redevelopment-related construction. Any excess soil or other solid waste from below Development Depth that will not be placed back below Development Depth during redevelopment-related construction will be disposed off-site in accordance with all relevant federal, state and local regulations. Any soils which show obvious signs of significant contamination or free product will be segregated and disposed of off-site in accordance with relevant federal, state and local regulations. Segregation of contaminated soil for off-site disposal will be based on visual, olfactory and instrument-based soil screening performed by a qualified environmental professional during all development excavations below the Development Depth. Based upon the volume of stockpiled soil intended for off-site disposal, a representative number of composite and/or grab samples will be collected for laboratory analysis in accordance with potential disposal vendor requirements to determine waste disposal characterization. The analyses to be performed will depend upon the requirements of the off-site disposal facility selected by the property owner, and may include full toxic characteristic leaching procedure (TCLP) parameters, VOCs, PCBs, PAHs and metals. Based upon the results of the laboratory analyses, the final disposition of these materials will be determined.

Transport of materials will be performed by licensed haulers in accordance with appropriate local, state, and federal regulations, including 6 NYCRR Part 364. Contaminated material transported by trucks exiting the Site will be secured with tight-fitting covers. Loose-fitting canvas-type truck covers will be prohibited. If loads contain wet material capable of producing free liquid, truck liners will be used. In addition, (a) trucks will be prohibited from stopping and idling in the neighborhood outside the project Site; (b) egress points for truck and equipment transport from the Site will be kept clean of dirt and other materials during Site development; and (c) queuing of trucks will be performed on-site in order to minimize off-site disturbance.

Generally, trucks leaving the Site shall exit the Site onto 35th Street and proceed west to the nearest local City of New York-designated truck routes [i.e., First Avenue (to then travel north) or to Second Avenue (to then travel south)]. Trucks will travel via local truck routes to through truck routes leading out of the City. The labeling, packaging, and transportation of the waste shall be in compliance with federal and state rules and regulations, as well as those of the bridge and tunnel operators (i.e. the Port Authority of New York and New Jersey and MTA Bridges and Tunnels). Wastes must travel over or through only those specific bridges or tunnels that are designated for that specific type of waste. Figure 2 depicts the location of the Site and nearby truck transport routes from the Site to locations to the north, east and west.

5.3.2 Management of Construction Water and Groundwater

Water pumped from excavations below Development Depth will be managed properly in accordance with all applicable regulations so as to prevent endangerment of public health, property, or any portion of the construction.

Site development may require the dewatering of groundwater. Dewatered groundwater will be managed using any of the following three methods:

1. Discharge to the New York City sewer system with authorization from the New York City Department of Environmental Protection (NYCDEP);
2. Discharge to surface water pursuant to a SPDES Equivalent permit issued by the NYSDEC; or,
3. Transportation and disposal at an off-site treatment facility.

Discharge to the New York City sewer system is a convenient method for management of dewatering fluids during construction. The NYCDEP regulates discharges to the New York City sewers under NYCDEP's Title 15, Rules of the City of New York (RCNY) Chapter 19.

Discharge to the New York City sewer system will require an authorization and sampling data demonstrating that the dewatering fluids meets New York City's Sewer Use Guidelines. If necessary, the dewatering fluid will be pretreated to meet the New York City effluent discharge criteria.

The contractor may alternatively discharge to surface water (e.g., the East River). The NYSDEC regulates such discharges under 6 NYCRR 750. If the discharge utilizes the NYCDEP sewer system, then NYCDEP authorization will also be required as described above. The contractor may alternatively utilize an outfall to surface water not controlled by NYCDEP. Construction of

such an outfall would require NYSDEC and U.S. Army Corps of Engineers permits and approvals.

If discharge to the New York City sewer system is not feasible or is not desirable, the dewatering fluids will be managed by transportation and disposal at an off-site treatment facility, in accordance with all relevant federal, state and local regulations. A representative number of composite or grab samples will be collected for laboratory analysis in accordance with potential disposal vendor requirements to determine waste disposal characterization. Based upon the results of the laboratory analysis, the final disposition of the dewatering fluids will be determined.

5.4 Cover System

Future Site development will constitute the cover system at the Site. Based on the elevation of Development Depth (approximately 6 to 9 feet below sidewalk grade elevation), there will be greater than two feet of cover over the entire Site. The cover system will consist of the building structures, clean fill soil, landscaping, and concrete and asphalt paving, in accordance with the New York City Department of Buildings (NYCDOB)-approved development plan for the Site.

Site redevelopment may, in addition to the new building structures, require the importation of clean fill to restore Site grade above Development Depth. Any soils imported to the Site must meet the backfill and cover soil quality standards established in 6 NYCRR Part 375-6.7(d)(1)(ii)(b) or otherwise approved by the NYSDEC. Appendix E provides a table listing the respective allowable constituent levels applicable to soil material to be placed above and below the Development Depth, respectively.

The NYSDEC previously approved the use of clean fill obtained from Amboy Aggregates, South Amboy, New Jersey for this Site. Additional laboratory testing of fill soil from any Site other than Amboy Aggregates will be performed. One representative sample from virgin soils will be obtained and analyzed for TCL VOCs, SVOCs, pesticides, PCBs, and Priority Pollutant metals to document compliance with TAGM RSCOs. Non-virgin soils will be tested via the collection of one composite sample per 500 cubic yards of material from each fill source area. If more than 1000 cubic yards of soil are borrowed from a given non-virgin soil source area and both samples of the first 1000 cubic yards meet TAGM RSCOs, the sample collection frequency will be reduced to one composite sample for every 2500 cubic yards of additional soils from the same source, up to 5000 cubic yards. For borrow sources greater than 5000 cubic yards, sampling

frequency will be reduced to one sample per 5000 cubic yards, provided all earlier samples met TAGM RSCOs.

5.5 Institutional Controls

The institutional control for the Site (referred to herein after as the Controlled Property) will consist of an Environmental Easement applying to disturbances of soil below Development Depth and usage of groundwater (Appendix F). Soil or material below Development Depth must be properly handled and disposed, if removed, in accordance with all applicable regulations. Any groundwater that is removed from the Site must be properly treated for disposal purposes.

The Institutional Controls that are applicable to this Site are as follows:

1. Compliance with the Environmental Easement and this SMP by the Grantor and the Grantor's successors and assigns;
2. All Engineering Controls must be maintained as specified in this SMP;
3. All Engineering Controls on the Controlled Property must be inspected at a frequency and in a manner defined in the SMP; and,
4. Groundwater, soil vapor and other environmental or public health monitoring are not required to be performed as part of this SMP. However, periodic inspections must be performed to assess the performance and effectiveness of the remedy.

The Site also has a series of Institutional Controls in the form of site restrictions that apply to the Controlled Property as follows:

1. The property may only be used for restricted-residential and commercial use below the Development Depth provided that the long term Engineering and Institutional Controls included in this SMP are employed. No environmental easements, engineering controls, institutional controls, or any other consents, approvals, or authorizations are required for any activities above the Development Depth.
2. A higher level of use, such as residential use, will not be allowed for activities below the Development Depth without additional remediation and amendment of the Environmental Easement, as approved by the NYSDEC;
3. All future activities on the property that will disturb remaining contaminated material must be conducted in accordance with this SMP; and,
4. The use of the groundwater underlying the property is prohibited without treatment rendering it safe for intended use.

The Site owner or remedial party will submit to NYSDEC a written statement that certifies, under penalty of perjury, that: (1) controls employed at the Controlled Property are unchanged from the previous certification or that any changes to the controls were approved by the NYSDEC; and, (2) nothing has occurred that impairs the ability of the controls to protect public health and environment or that constitute a violation or failure to comply with the SMP. NYSDEC retains the right to access such Controlled Property at any time in order to evaluate the continued maintenance of any and all controls. This certification shall be submitted annually, or an alternate period of time that NYSDEC may allow and will be made by an expert that the NYSDEC finds acceptable (see Section 8.0).

5.6 Maintenance

Maintenance of the remedy is the responsibility of the property owner. Erosion of the soil cover system will be reduced by maintaining the cover system. Cover materials will be inspected annually and repaired as needed. The property owner will implement Site maintenance as part of future construction and normal property operations in accordance with NYCDOB requirements. The owner of the subject property will identify a qualified environmental consultant to provide all services described in this SMP. The responsibility to comply with this SMP will be transferred to any future property owners.

6.0 HEALTH AND SAFETY

The Site is not subject to the HAZWOPER requirements under 29 CFR 1910.120. Other OSHA provisions, specifically Construction Safety and Hazard Communication standards, apply. Soil and groundwater disturbance activities below Development Depth will be performed in accordance with all applicable federal, state and local regulations to protect worker health and safety. All contractors performing such work for the property owner will prepare a site-specific, activity-specific Health and Safety Plan (HASP). The HASP must also include provisions for protection of the community as described in Section 6.2 of this SMP.

6.1 Construction Personnel Protection

Contractors engaged in subsurface construction or maintenance activities will be required to implement appropriate construction health and safety procedures. These procedures will involve, at a minimum, donning adequate personal protective clothing and equipment, performing appropriate air monitoring, and implementing other procedures as necessary to avoid potential ingestion, inhalation and contact with residual constituents in the soil or groundwater below Development Depth. Workers will receive appropriate hazard communication information and training.

6.2 Community Air Monitoring Program

Air monitoring for dust particulates and volatile organic compounds (VOCs) will be performed during Site development activities below Development Depth in accordance with the NYSDOH Generic Community Air Monitoring Plan (gCAMP; Appendix C). All air monitoring readings will be recorded in a logbook or other means and will be available for review by the NYSDEC and NYSDOH.

7.0 QUALITY ASSURANCE/QUALITY CONTROL

7.1 Analytical Data

All waste characterization samples collected during Site redevelopment activities below Development Depth will be analyzed using the most recent NYSDEC Analytical Services Protocol (ASP), consistent with Section 2 of DER-10, the Technical Guidance for Site Investigation and Remediation.

The laboratory proposed to perform the analyses will be certified through the New York State Department of Health Environmental Laboratory Approval Program (ELAP) to perform Contract Laboratory Program (CLP) analysis and Solid Waste and Hazardous Waste Analytical testing on all media to be sampled during Site redevelopment. The laboratory will maintain this certification for the duration of the work.

Procedures for chain of custody, laboratory instrumentation calibration, laboratory analyses, reporting of data, internal quality control, and corrective actions shall be followed as per NYSDEC ASP and as per the laboratory's Quality Assurance Plan. If applicable, trip blanks, field blanks, field duplicates, and matrix spike, matrix spike duplicates will be performed at a rate of 5% (1 per up to 20 samples) and will be used to assess the quality of the data. The laboratory's in-house QA/QC limits will be utilized whenever they are more stringent than those suggested by the EPA methods.

8.0 NOTIFICATION AND REPORTING

8.1 Notifications

Notification to the NYSDEC will be required for transfer of the title to all or part of the Site, Site development (erection of structure) and maintenance activities below Development Depth.

Any change in ownership of the Site or the responsibility for implementing this SMP will include the following notifications: (1) at least 60 days prior to the change, the NYSDEC will be notified in writing of the proposed change. This will include a certification that the prospective purchaser has been provided with a copy of the BCA, and all approved work plans and reports including this SMP; and (2) within 15 days after the transfer of all or part of the Site, the new owner's name, contact representative, and contact information will be confirmed in writing.

The following NYSDEC notification requirements apply to the Site:

- Seven (7) - day advance notice of any proposed ground-intrusive activities;
- Notice within 48 hours of any damage or defect to the foundations of structures that reduces or has the potential to reduce the effectiveness of other Engineering Controls and likewise any action taken to mitigate the damage or defect;
- Verbal notice by noon of the following day of any emergency, such as a fire, flood, or earthquake that reduces or has the potential to reduce the effectiveness of Engineering Controls in place at the Site, with written confirmation within seven (7) days that includes a summary of actions taken, or to be taken, and the potential impact to the environment and the public; and,
- Follow-up status reports on actions taken to respond to any emergency event requiring ongoing responsive action shall be submitted to the Department within 45 days and shall describe and document actions to restore the effectiveness of the Engineering Controls.

The requirements for notification shall cease once the Environmental Easement is removed, as approved by NYSDEC.

Notification contacts are as follows:

NYSDEC
Division of Environmental Remediation
625 Broadway
Albany, New York 12233-7011

8.2 Periodic Review Report

The Periodic Review Report (PRR) will be submitted to the Department on an annual basis, beginning 18 months after the Certificate of Completion is issued. The PRR will be prepared in accordance with NYSDEC DER-10 and submitted within 45 days of the end of the certification period.

The PRR will include the following:

- Identification, assessment and certification of all Engineering Controls/Institutional Controls required by the remedy for the Site;
- The results of the required annual Site inspection:
- Results of all analyses, copies of all laboratory data sheets, and the required laboratory data deliverables for all samples collected during the reporting period will be submitted electronically in a NYSDEC-approved format;
- If intrusive work was done below Development Depth during the period covered by that PRR:
 - A certification that all work was performed in conformance with this SMP.
 - Plans showing areas and depth of fill removal and replacement (if applicable).
 - Description of the excavation/dewatering activities performed, quantities of material excavated/pumped, disposal locations for the soil/groundwater, documentation of proper disposal (waste manifests or waybills).
- If backfill material was imported to the Site during the period covered by that PRR:
 - Location of backfill material source.
 - Copy of analytical test results for backfill material, if applicable, documenting compliance with 6 NYCRR Part 375-6.7(d)(1)(ii)(b) or otherwise approved by the NYSDEC.

- A Site evaluation, which includes the following:
 - The compliance of the remedy with the requirements of the site-specific Remedial Action Work Plan;
 - The overall performance and effectiveness of the remedy.

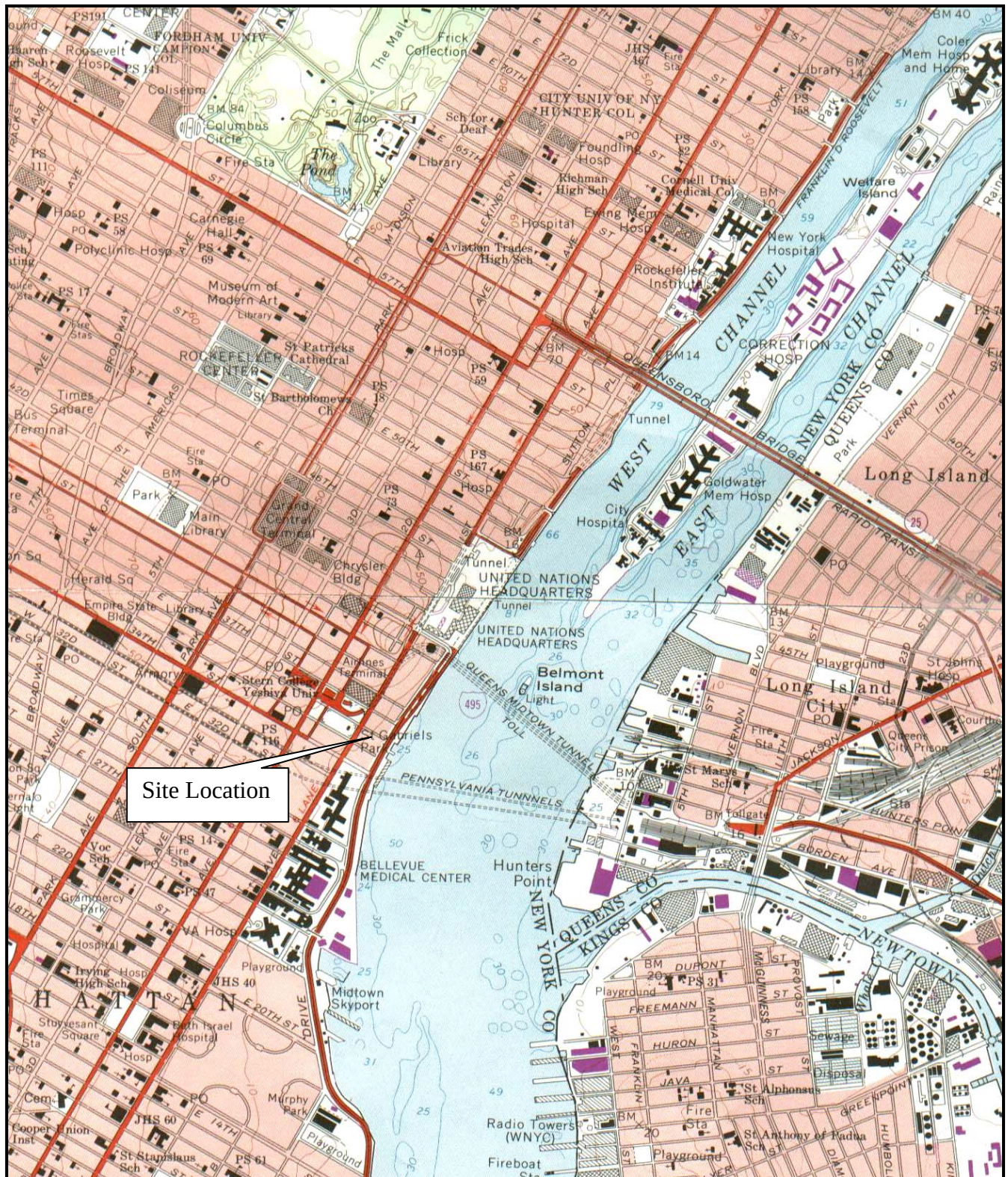
The PRR shall be submitted in electronic format to NYSDEC Central Office and the NYSDOH Bureau of Environmental Exposure Investigation.

The requirement for reporting shall cease once the Environmental Easement is removed, as approved by NYSDEC.

8.3 Corrective Measures Plan

If any component of the remedy is found to have failed, or if the periodic certification cannot be provided due to the failure of an institutional or engineering control, a corrective measures plan will be submitted to NYSDEC for approval. This plan will explain the failure and provide the details and schedule for performing work necessary to correct the failure. Unless an emergency condition exists, no work will be performed pursuant to the corrective measure plan until it is approved by the NYSDEC.

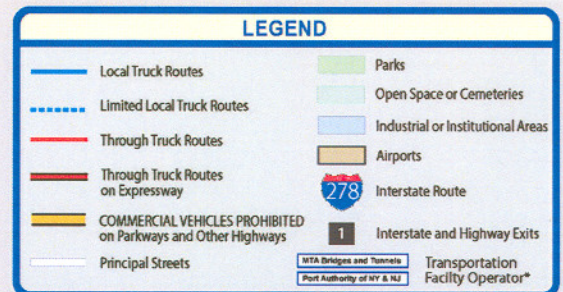
Figures



Kips Bay Fuel Terminal
616 First Avenue
New York, New York

Figure 1: Site Location Map
 Approximate Scale 1: 24,000

Source: USGS Topographical Survey Maps
 Central Park NY – NJ Quadrangle, Photorevised 1979
 Brooklyn, NY, Photorevised 1979



* Truck restrictions vary by facility. For more information, refer to the Resource section of this map.

MAP OBTAINED THROUGH USE OF WWW.NYC.GOV/TRUCKS



DESIGNED BY: TS
 DRAWN BY: HD
 CHECKED BY: SM
 DATE: MAY 2011
 SCALE: AS SHOWN
 PROJECT NUMBER: 180360.0000.0000

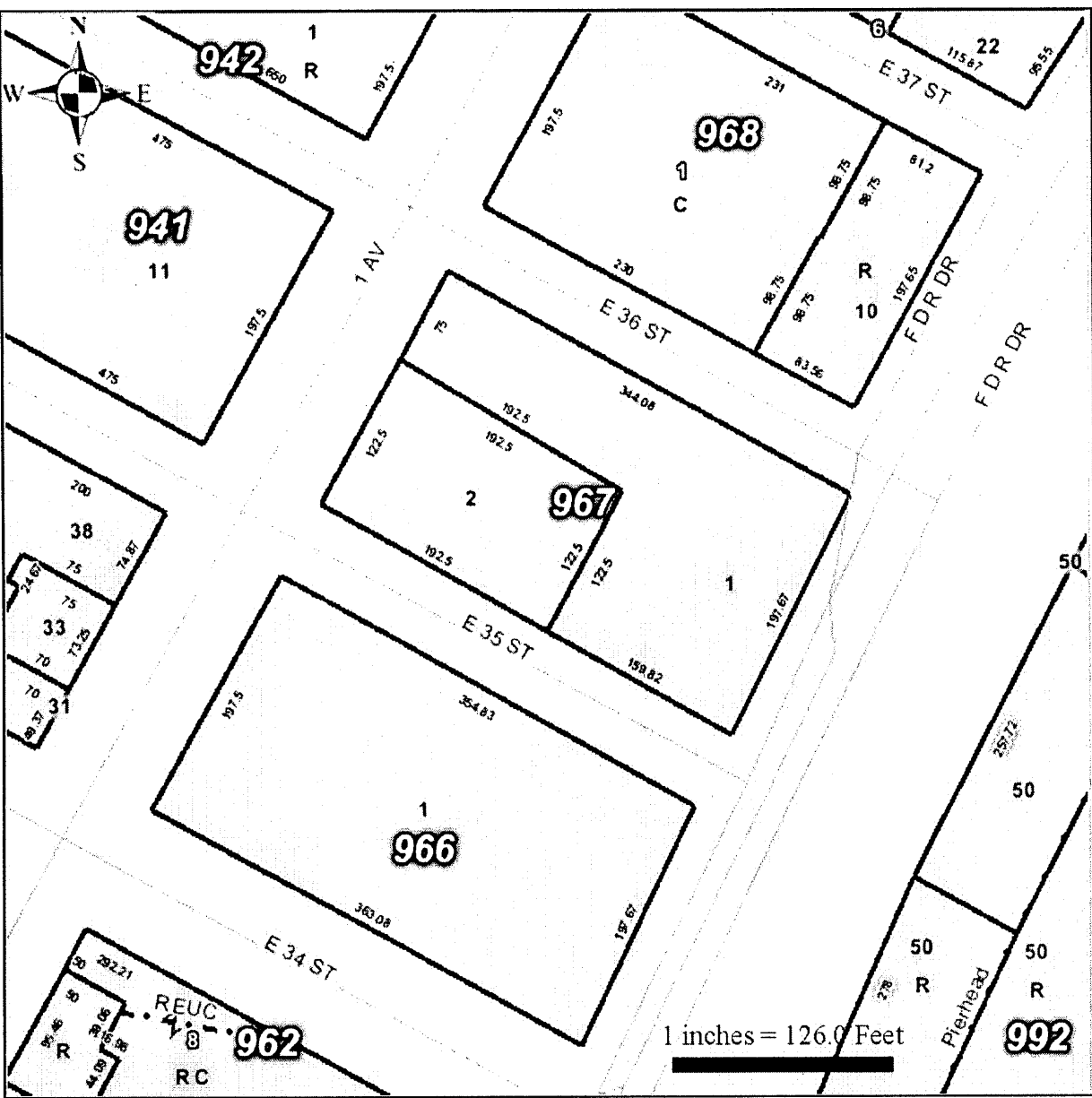
PROJECT NAME: **SITE MANAGEMENT PLAN
 FORMER KIPS BAY TERMINAL
 616 FIRST AVENUE
 NEW YORK, NEW YORK**

DRAWING TITLE: **TRUCK TRANSPORTATION ROUTES**

FIGURE
 2

Appendix A

Site Survey Maps



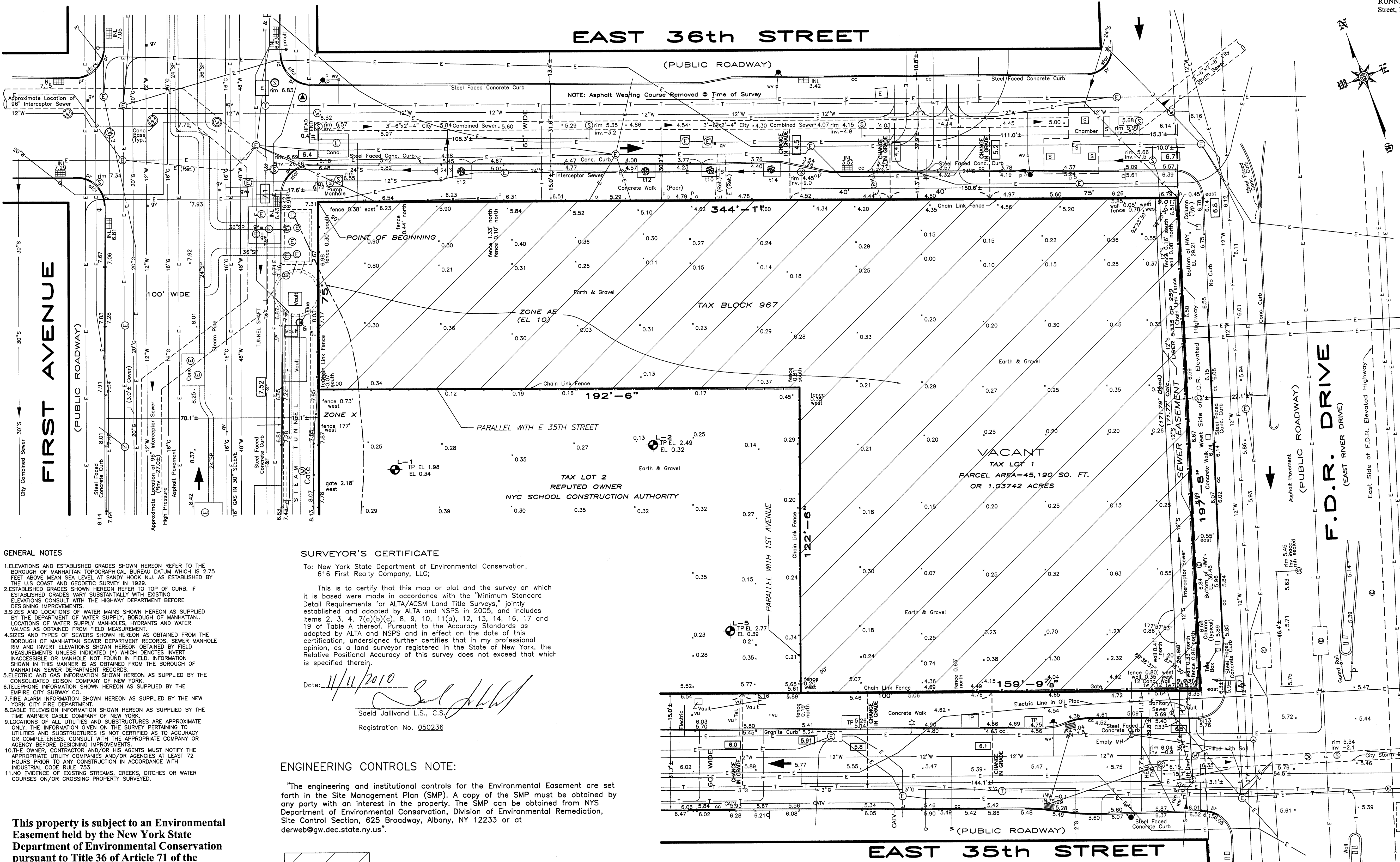
VICINITY MAP
NOT TO SCALE

ALTA/ACSM LAND TITLE SURVEY

SURVEY NO. 63202-4
63202-4.DWG

SCHEDULE B ITEMS

- Sewer Easement Grant by Consolidated Edison Company of New York, Inc. to The City of New York dated 06/23/65 recorded 7/27/65 in Liber 5335 Cp. 259 for the conveyance and transmission of sewage for the Newtown Creek Pollution Control Project.
 - Terms, Covenants and Conditions of the Water Grant made by the Mayor, Alderman and Commonalty of the City of New York to Henry J. Anderson dated 08/01/1850 recorded 08/08/1850 in Liber 553 Cp. 46 (Liber "H" of City Grants, Cp. 514).
 - Terms, Covenants and Conditions of Fixture Rezoning Covenants by and between Consolidated Edison Company of New York, Inc., 616 First Realty Company, LLC, 708 First Realty Company LLC and East River Realty Company LLC dated 3/25/05 recorded 5/4/05 in CRFN 2005000259034.
 - Restrictive Declaration made by 616 First Realty Company, LLC, 685 First Realty Company, LLC, 700 First Realty Company, LLC and 7085 First Realty Company, LLC dated as of 3/24/2008, recorded 4/17/2008 in CRFN 2008000153631.
- With Regard Thereto:
- Waiver of Restrictive Declaration/Subordination of Covenant made by the Consolidation Edison Company of New York dated as of 3/24/2008, recorded 4/17/2008 in CRFN 2008000153630.
 - First Modification to Restrictive Declaration made by 616 First Realty Company, LLC, 685 First Realty Company, LLC, 700 First Realty Company, LLC and 708 First Realty Company, LLC dated as of 12/21/2009, recorded 1/8/2010 in CRFN 2010000007223.
 - Waiver of Restrictive Declaration/Subordination of Covenant made by The Consolidated Edison Company of New York dated as of 12/21/2009, recorded 1/8/2010 in CRFN 2010000007222.
 - Declaration made by 616 First Realty Company, LLC, as successor to East River Realty Company, LLC (708 First Realty Company, LLC) dated 5/7/2008, recorded 5/19/2008 in CRFN 2008000200591.
 - Declaration of Zoning Lot Restrictions made by 616 First Realty Company, LLC and The New York City School Construction Authority dated 12/03/2009, recorded 1/8/2010 in CRFN 2010000007225.
 - Declaration of Zoning Lot Covenants and Restrictions made by and between The New York City School Construction Authority and 616 First Realty Company, LLC dated as of 12/23/2009, recorded 1/8/2010 in CRFN 2010000007226.



- ### GENERAL NOTES
- ELEVATIONS AND ESTABLISHED GRADES SHOWN HEREON REFER TO THE BOROUGH OF MANHATTAN TOPOGRAPHICAL BUREAU DATUM WHICH IS 2.75 FEET ABOVE MEAN SEA LEVEL AT SANDY HOOK N.J., AS ESTABLISHED BY THE U.S. COAST AND GEODETIC SURVEY IN 1929.
 - ESTABLISHED GRADES SHOWN HEREON REFER TO TOP OF CURB. IF ESTABLISHED GRADES VARY SUBSTANTIALLY WITH EXISTING ELEVATIONS CONSULT WITH THE HIGHWAY DEPARTMENT BEFORE DESIGNING IMPROVEMENTS.
 - SIZES AND LOCATIONS OF WATER MAINS SHOWN HEREON AS SUPPLIED BY THE DEPARTMENT OF WATER SUPPLY, BOROUGH OF MANHATTAN. LOCATIONS OF WATER SUPPLY MANHOLES, HYDRANTS AND WATER VALVES AS OBTAINED FROM FIELD MEASUREMENT.
 - SIZES AND TYPES OF SEWERS SHOWN HEREON AS OBTAINED FROM THE BOROUGH OF MANHATTAN SEWER DEPARTMENT RECORDS. SEWER MANHOLE RIM AND INVERT ELEVATIONS SHOWN HEREON OBTAINED BY FIELD MEASUREMENTS UNLESS INDICATED (*) WHICH DENOTES INVERT UNOBTAINABLE OR MANHOLE NOT FOUND IN FIELD. INFORMATION SHOWN IN THIS MANNER IS AS OBTAINED FROM THE BOROUGH OF MANHATTAN SEWER DEPARTMENT RECORDS.
 - ELECTRIC AND GAS INFORMATION SHOWN HEREON AS SUPPLIED BY THE CONSOLIDATED EDISON COMPANY OF NEW YORK.
 - TELEPHONE INFORMATION SHOWN HEREON AS SUPPLIED BY THE EMPIRE CITY SUBWAY CO.
 - FIRE ALARM INFORMATION SHOWN HEREON AS SUPPLIED BY THE NEW YORK CITY FIRE DEPARTMENT.
 - CABLE TELEVISION INFORMATION SHOWN HEREON AS SUPPLIED BY THE TIME WARNER CABLE COMPANY OF NEW YORK.
 - LOCATIONS OF ALL UTILITIES AND SUBSTRUCTURES ARE APPROXIMATE ONLY. THE INFORMATION GIVEN ON THE SURVEY PERTAINING TO UTILITIES AND SUBSTRUCTURES IS NOT GUARANTEED AS TO ACCURACY OR COMPLETENESS. CONSULT WITH THE APPROPRIATE COMPANY OR AGENCY BEFORE DESIGNING IMPROVEMENTS.
 - THE OWNER, CONTRACTOR AND/OR HIS AGENTS MUST NOTIFY THE APPROPRIATE UTILITY COMPANIES AND/OR AGENCIES AT LEAST 72 HOURS PRIOR TO ANY CONSTRUCTION IN ACCORDANCE WITH INDUSTRIAL CODE RULE 753.
 - NO EVIDENCE OF EXISTING STREAMS, CREEKS, DITCHES OR WATER COURSES ON OR CROSSING PROPERTY SURVEYED.

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.

SURVEYOR'S CERTIFICATE

To: New York State Department of Environmental Conservation,
616 First Realty Company, LLC;

This is to certify that this map or plot and the survey on which it is based were made in accordance with the "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys," jointly established and adopted by ALTA and NSPS in 2005, and includes items 2, 5, 4, 7(a)(b)(c), 8, 9, 10, 11(a), 12, 13, 14, 16, 17 and 19 of Table A thereof. Pursuant to the Accuracy Standards as adopted by ALTA and NSPS and in effect on the date of this certification, undersigned further certifies that in my professional opinion, as a land surveyor registered in the State of New York, the Relative Positional Accuracy of this survey does not exceed that which is specified therein.

Date: 4/14/2010

Seid Jallvand L.S., C.S.
Registration No. 050236

ENGINEERING CONTROLS NOTE:

"The engineering and institutional controls for the Environmental Easement are set forth in the Site Management Plan (SMP). A copy of the SMP must be obtained by any party with an interest in the property. The SMP can be obtained from NYS Department of Environmental Conservation, Division of Environmental Remediation, Site Control Section, 625 Broadway, Albany, NY 12233 or at derweb@gw.dec.state.ny.us".

ENVIRONMENTAL EASEMENT BOUNDARY

LEGEND

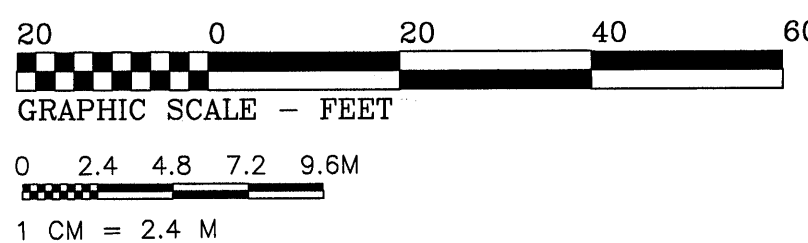
- ASPH.....ASPHALT
BK.....BRICK
BSMT.....BASEMENT
CC.....CURB CUT
CCR.....CONCRETE CURB ROUND
CD.....CELLAR DOOR
CLF.....CHAIN LINK FENCE
CO.....CATCH BASIN CLEAN OUT
CONC.....CONCRETE
CRF.....CHAIN ROPE FENCE
CWA.....CELLAR WINDOW AREA
DR.....DRAIN
EL.....ELEVATION
FAB.....FIRE ALARM BOX
FC.....FILL CAP
FL.....FLOOR ELEVATION
GP.....GUARD POLE
GV.....GAS VALVE
IF.....IRON FENCE
INL.....CATCH BASIN INLET ELEVATION
INV.....SEWER INVERT ELEVATION
L.....LIGHT POLE
MB.....MAIL BOX
MNL.....UNKNOWN MANHOLE
OF.....OIL FILL
OHW.....OVERHEAD WIRES
P.....POLE
PAVT.....PAVEMENT
PM.....PARKING METER
PMULT.....POLE, MULTIPLE USAGE
TP.....TOP OF PIPE
- PR.....PEDESTRIAN RAMP
RET.....RETAINING
RIM.....RIM ELEVATION SEWER MANHOLE
SFOR.....STEEL FACED CURB ROUND
STY.....STORY
TB.....TOP OF BANK ELEVATION
φ.....TRAFFIC LIGHT
TEL.....TELEPHONE
TP.....TREE PIT
td.....TRAFFIC SIGN
TW.....ELEVATION AT TOP OF WALL
UP.....UTILITY POLE
VU.....VALVE UNKNOWN
VLTU.....VAULT UNKNOWN
VV.....VENT PIPE
WV.....WATER VALVE
12" G.....GAS MAIN WITH SIZE
12" S.....SEWER MAIN WITH SIZE
12" W.....WATER MAIN WITH SIZE
IF.....IRON FENCE
INL.....CATCH BASIN INLET ELEVATION
INV.....SEWER INVERT ELEVATION
L.....LIGHT POLE
MB.....MAIL BOX
MNL.....UNKNOWN MANHOLE
OF.....OIL FILL
OHW.....OVERHEAD WIRES
P.....POLE
PAVT.....PAVEMENT
PM.....PARKING METER
PMULT.....POLE, MULTIPLE USAGE
TP.....TOP OF PIPE
- L.....BORING AND DOWN HOLE SEISMIC TEST
L (OW).....OBSERVATION WELL
.....MONITORING WELL

UTILITY COVERS

ELECTRIC CONDUIT.....2'-6" MIN.
ELECTRIC LOW TENSION.....18" MIN.
TELEPHONE & FIBER.....2'-6" MIN.
WATER MAIN.....4'-0" MIN.
GAS MAIN.....2'-0" - 4'-0"
CABLE TV CONDUIT.....18" MIN.

FLOOD HAZARD NOTE

THE PARCEL SURVEYED IS COMPRISED OF AREAS DESIGNATED AS ZONE AE (EL 10 IN GVD 1929) (EL 7.3 NEW YORK DATUM) FEDERAL EMERGENCY MANAGEMENT AGENCY NATIONAL FLOOD INSURANCE PROGRAM FLOOD INSURANCE RATE MAP COMMUNITY PANEL NUMBER 360497 0201 F EFFECTIVE DATE SEPTEMBER 5, 2007



REV	DATE	DESCRIPTION	ck	REV	DATE	DESCRIPTION	ck
				11-10-10	ALTA-ACSM LAND TITLE SURVEY		
				A			

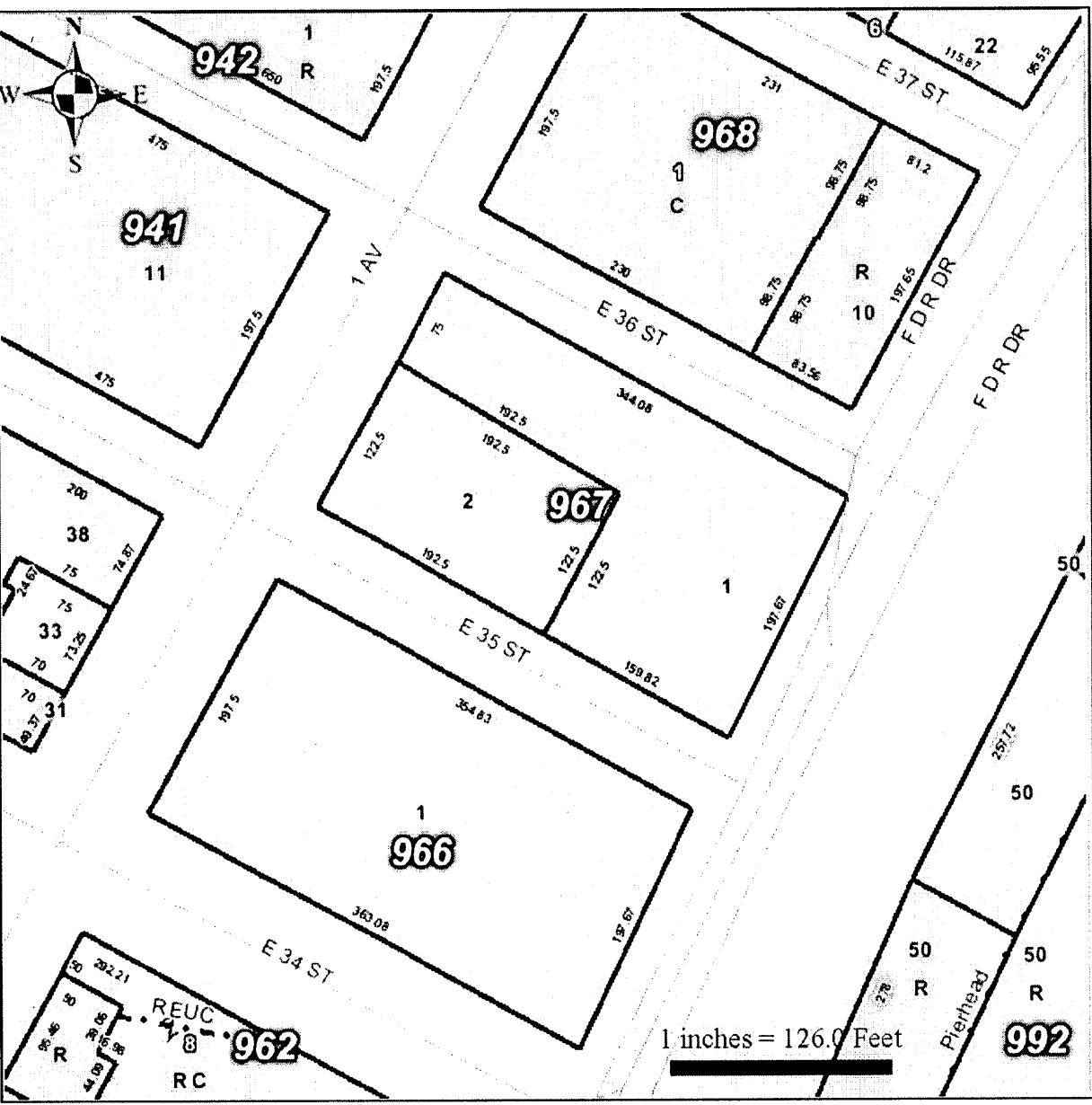
UNAUTHORIZED ALTERATION OR ADDITION TO THIS SURVEY IS A VIOLATION OF SECTION 205 OF THE NEW YORK STATE EDUCATION LAW.

THE SURVEYOR'S OATH AND SEAL SHALL BE SUBMITTED WITH THE ORIGINAL OF THIS SURVEY. THE OATH AND SEAL OF THE SURVEYOR SHALL BE SUBMITTED WITH THE ORIGINAL OF THIS SURVEY. THE OATH AND SEAL OF THE SURVEYOR SHALL BE SUBMITTED WITH THE ORIGINAL OF THIS SURVEY.

MONTROSE
SURVEYING CO., LLP.
CITY & LAND SURVEYORS
116 20 METROPOLITAN AVE • RICHMOND HILL NY 11418-1099 • (718) 849-0600
© ALL RIGHTS RESERVED 2010

CITY OF NEW YORK
COUNTY: NEW YORK
TAX BLOCK: 967
TAX LOT 1
SCALE: 1" = 20'

ESTABLISHED 1876 • SUCCESSOR TO:
B.G. MENKHEM C.S., C.L., POWELL C.E., C.S., L.C., SMITH C.S., NATHAN CAMPBELL C.E., C.S., AU. WHITSON C.E., C.S.
WILLIAM L. SAVACCO C.E., L.S., C.S., AU. WHITSON C.E., C.S., L.C., WEBER L.S., C.S., L.C., STODOLSKY R.A., L.S., WHITSON C.E.
POWELL C.E., L.S., C.S., WEBER L.S., C.S., L.C., AU. WHITSON C.E., C.S., L.C., STODOLSKY R.A., L.S., WHITSON C.E.



VICINITY MAP
NOT TO SCALE

SCHEDULE B ITEMS

- Sewer Easement Grant by Consolidated Edison Company of New York, Inc. to The City of New York dated 06/23/65 recorded 7/27/65 in Liber 5335 Cp. 259 for the conveyance and transmission of sewage for the Newtown Creek Pollution Control Project. (Affects lot 1 only)
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 - Declaration of Zoning Lot Covenants and Restrictions made by and between The New York City School Construction Authority and 616 First Realty Company, LLC dated as of 12/23/2009, recorded 1/8/2010 in CRFN 2010000007226.

Metes and Bounds Description

Tax Block 967 Tax Lot 2
CRFN 2010000007224, Recorded 01-08-2010

ALL that certain plot, piece or parcel of land situate, lying and being in the Borough of Manhattan, County, City and State of New York, bounded and described as follows;

BEGINNING at the corner formed by the intersection of the northerly side of East 35th Street (60 feet wide) with the easterly side of First Avenue (100 feet wide);

RUNNING THENCE northerly, along the easterly side of First Avenue, 122 feet 6 inches to a point;

RUNNING THENCE easterly, parallel with the northerly side of East 35th Street, 192 feet 6 inches to a point;

RUNNING THENCE southerly, parallel with the easterly side of First Avenue, 122 feet 6 inches to the northerly side of East 35th Street;

RUNNING THENCE westerly, along the northerly side of East 35th Street, 192 feet 6 inches to the corner, the point or place of BEGINNING.

The premises comprises of an area of 23,581 sq. ft. or 0.54135 acres.

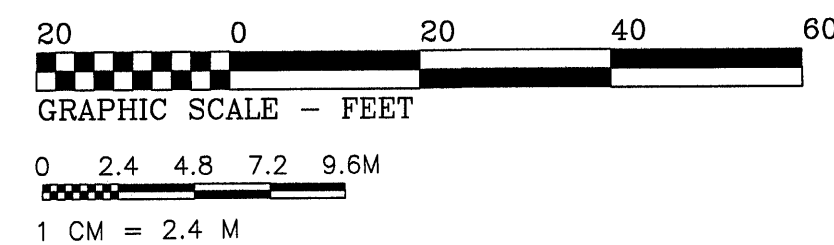
GENERAL NOTES

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- NO EVIDENCE OF EXISTING STREAMS, CREEKS, DITCHES OR WATER COURSES ON/OR CROSSING PROPERTY SURVEYED.

FLOOD HAZARD NOTE

THE PARCEL SURVEYED IS COMPRISED OF AREAS DESIGNATED AS ZONE AE (EL 10 IN GVD 1929) (EL 7.3 NEW YORK DATUM) FEDERAL EMERGENCY MANAGEMENT AGENCY NATIONAL FLOOD INSURANCE PROGRAM FLOOD INSURANCE RATE MAP COMMUNITY PANEL NUMBER 360497 0201 F EFFECTIVE DATE SEPTEMBER 5, 2007



UNAUTHORIZED ALTERATION OR ADDITION TO THIS SURVEY IS A VIOLATION OF SECTION 209 OF THE NEW YORK STATE EDUCATION LAW

ONLY OFFER FROM THE ORIGINAL OF THIS SURVEY MARKED WITH AN ORIGINAL OF THE LAND SURVEYOR'S SEAL OR HIS EMPLOYED SEAL SHALL BE CONSIDERED TO BE VALID TRUE COPIES

CERTIFICATIONS INDICATED HEREON SHALL BE MADE BY THE SURVEYOR WHO PREPARED AND ON HIS BEHALF BY THE TITLE COMPANY. CERTIFICATIONS BY AN AGENT OR LICENSED INSTITUTION LIMITED HEREON, AND TO THE ASSURANCE OF THE LENDING INSTITUTION, CERTIFICATIONS ARE NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS

MONTROSE

SURVEYING CO., LLP.
CITY & LAND SURVEYORS

116 20 METROPOLITAN AVE • RICHMOND HILL NY 14181-1090 • (718) 849-0600

Seid Jullivand L.S., C.S.

ALL RIGHTS RESERVED 2010

CITY OF NEW YORK
COUNTY: NEW YORK
TAX BLOCK: 967
TAX LOT 2

SCALE: 1" = 20'

SURVEY NO. 63202-3
63202-3.DWG

ALTA/ACSM LAND TITLE SURVEY

ENGINEERING CONTROLS NOTE:

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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.

LEGEND

- | | |
|-------------------------------------|-------------------------------------|
| ASPH.....ASPHALT | PR.....PEDESTRIAN RAMP |
| BK.....BRICK | RET.....RETAINING |
| BSMT.....BASEMENT | RIM.....RIM ELEVATION SEWER MANHOLE |
| CC.....CURB CUT | SFOR.....STEEL FACED CURB ROUND |
| CCR.....CONCRETE CURB ROUND | STY.....STORY |
| CD.....CELLAR DOOR | TB.....TOP OF BANK ELEVATION |
| CLF.....CHAIN LINK FENCE | φ.....TRAFFIC LIGHT |
| CO.....CATCH BASIN CLEAN OUT | TEL.....TELEPHONE |
| CONC.....CONCRETE | TP.....TREE PIT |
| CRF.....CHAIN ROPE FENCE | q.....TRAFFIC SIGN |
| CWA.....CELLAR WINDOW AREA | TW.....ELEVATION AT TOP OF WALL |
| DR.....DRAIN | UP.....UTILITY POLE |
| EL.....ELEVATION | VU.....VALVE UNKNOWN |
| FAB.....FIRE ALARM BOX | VLTU.....VALVE UNKNOWN |
| FC.....FILL CAP | VV.....VENT PIPE |
| FL EL.....FLOOR ELEVATION | WW.....WATER VALVE |
| GP.....GUARD POLE | 12"G.....GAS MAIN WITH SIZE |
| GV.....GAS VALVE | 12"W.....SEWER MAIN WITH SIZE |
| IF.....IRON FENCE | 12"W.....WATER MAIN WITH SIZE |
| INL.....CATCH BASIN INLET ELEVATION | ■.....CATCH BASIN |
| INV.....SEWER INVERT ELEVATION | ⊕ ⊗.....ELECTRIC MANHOLE / VAULT |
| LG.....LIGHT POLE | ⊕.....FIRE MANHOLE |
| MB.....MAIL BOX | ⊕.....GAS MANHOLE |
| MHU.....UNKNOWN MANHOLE | ⊕.....SEWER MANHOLE |
| OF.....OIL FILL | ⊕.....TELEPHONE MANHOLE |
| OHV.....OVERHEAD WIRES | ⊕.....WATER MANHOLE |
| P.....POLE | ⊕.....TRAFFIC VAULT |
| PAV.....PAVEMENT | ⊕.....HYDRANT |
| PM.....PARKING METER | ⊕.....TREE WITH SIZE |
| PMULT.....POLE, MULTIPLE USAGE | 17.0.....ESTABLISHED/LEGAL GRADE |
| TP.....TOP OF PIPE | →.....TRAFFIC FLOW |

UTILITY COVERS

ELECTRIC CONDUIT.....2'-6" MIN.
ELECTRIC LOW TENSION.....18" MIN.
TELEPHONE & FIBER.....2'-6" MIN.
WATER MAIN.....4'-0" MIN.
GAS MAIN.....2'-0" - 4'-0"
CABLE TV CONDUIT.....18" MIN.

NOTES:

- BELOW GRADE ENCROACHMENTS AND VAULTS IF ANY NOT LOCATED.
- THERE ARE NO PARKING SPACES ON THE PREMISES.
- THE PREMISES IS SERVED BY GAS, WATER, ELECTRICITY, TELEPHONE AND SANITARY SEWER LINES INSTALLED IN STREET.
- NO EVIDENCE OF THE SITE BEING USED AS SOLID WASTE DUMP.
- THE PREMISES HAS ACCESS TO 35TH STREET & 1ST AVENUE.

SURVEYOR'S CERTIFICATE

To: New York State Department of Environmental Conservation,
New York City School Construction Authority;

This is to certify that this map or plat and the survey on which it is based were made in accordance with the "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys," jointly established and adopted by ALTA and NSPS in 2005, and includes Items 2, 3, 4, 7(a)(b)(c), 8, 9, 10, 11(c), 12, 13, 14, 16, 17 and 19 of Table A thereof. Pursuant to the Accuracy Standards as adopted by ALTA and NSPS and in effect on the date of this certification, undersigned further certifies that in my professional opinion, as a land surveyor registered in the State of New York, the Relative Positional Accuracy of this survey does not exceed that which is specified therein.

Date: 11/11/2010

Seid Jullivand L.S., C.S.

Registration No. 650236

Appendix B

NYSDEC Approval Letters

APPENDIX B

NYSDEC APPROVAL LETTERS

New York State Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway, Albany, New York 12233-7016
Phone: (518) 402-9768 • FAX: (518) 402-9773
Website: www.dec.state.ny.us



Denise M. Sheehan
Commissioner

June 13, 2006

Mr. Michael Skirka
TRC Environmental Corporation
1200 Wall Street West, 2nd Floor
Lyndhurst, New Jersey 07071

RE: Voluntary Cleanup Project
First Avenue Properties VCP Sites
Kips Bay Fuel Terminal, 616 First Avenue
VCP # V00430
Final Report

Dear Mr. Skirka:

The New York State Department of Environmental Conservation (NYSDEC), along with the New York State Department of Health (NYSDOH), have completed a review of the "Final Report for Kips Bay Fuel Terminal Remediation Work Plan" (March 2006) and the "Letter Report, Groundwater Sampling Results for April 2006" (May 17, 2006) for the above-referenced site.

The Final Report indicates that all required remedial activities at the Site have been completed to ready the site for the contemplated use. The site is ready for unrestricted and unencumbered commercial and residential development down to the Development Depth, as described in Section 1.1 of the "Supplemental Soil Investigation Final Report and Remediation Work Plan" dated August 2003 as well as in Section 1.1 of the Final Report, contingent on the approval of a Site Management Plan (SMP).

For sites where institutional and engineering controls are required by the remedy, and will remain in place for longer than 18 months, a SMP must be submitted to the Department and approved prior to the approval of the final engineering report. The SMP should provide guidance for the development, implementation and management of the site institutional and engineering controls to ensure that they are in place and remain effective. The institutional/engineering control certification will be scheduled and reported on a periodic basis and provided to the Department in writing by the Property Owner.

Once the SMP is approved by the Department, development may begin at any time, without restriction above Development Depth. If you have any questions, don't hesitate to call me at (518) 402-9768.

Sincerely,

Thomas Gibbons
Project Manager
Remedial Bureau B, Section D
Division of Environmental Remediation

cc: R. Cozzy/File
T. Gibbons
N. Walz (DOH)

New York State Department of Environmental Conservation

Division of Environmental Remediation

625 Broadway, Albany, New York 12233-7016

Phone: (518) 402-9768 • FAX: (518) 402-9773

Website: www.dec.state.ny.us



Denise M. Sheehan
Commissioner

July 28, 2006

Mr. Michael Skirka
TRC Environmental Corporation
1200 Wall Street West, 2nd Floor
Lyndhurst, New Jersey 07071

RE: Voluntary Cleanup Project
First Avenue Properties VCP Sites
Kips Bay Fuel Terminal, 616 First Avenue
VCP # V00430
Final Report

Dear Mr. Skirka:

In a follow-up to my letter of June 13, 2006 (enclosed), approving the "Final Report for Kips Bay Fuel Terminal Remediation Work Plan", dated March 2006, I would like to clarify a few issues concerning this approval:

- DEC/DOH approve the March 2006 Final Report and its conclusions and the remedy is complete;
- No post-construction testing or engineering or institutional controls will be required at the site with respect to soil vapor intrusion;
- No deed restrictions, engineering controls, institutional controls, or any other consents, approvals, or authorizations are required for any activities above the Development Depth;
- The Site Management Plan (SMP) is required solely to document the existence of the institutional controls with respect to management of soil and groundwater below the Development Depth and that actions with respect to those media will be conducted in accordance with the SMP and applicable laws and regulations; and
- The agencies will consider the March 2006 Final Report, combined with the final SMP, to constitute the "final engineering report" for the Kips Bay site.

If you have any questions, don't hesitate to call me at (518) 402-9768.

Sincerely,

Thomas Gibbons
Project Manager
Remedial Bureau B, Section D
Division of Environmental Remediation

enclosure

cc: R. Cozzy/File
T. Gibbons
N. Walz (DOH)

Appendix C
NYSDOH
Generic Community Air Monitoring Plan

APPENDIX C

NYSDOH GENERIC COMMUNITY AIR MONITORING PLAN

New York State Department of Health Generic Community Air Monitoring Plan

A Community Air Monitoring Plan (CAMP) requires real-time monitoring for volatile organic compounds (VOCs) and particulates (i.e., dust) at the downwind perimeter of each designated work area when certain activities are in progress at contaminated sites. The CAMP is not intended for use in establishing action levels for worker respiratory protection. Rather, its intent is to provide a measure of protection for the downwind community (i.e., off-site receptors including residences and businesses and on-site workers not directly involved with the subject work activities) from potential airborne contaminant releases as a direct result of investigative and remedial work activities. The action levels specified herein require increased monitoring, corrective actions to abate emissions, and/or work shutdown. Additionally, the CAMP helps to confirm that work activities did not spread contamination off-site through the air.

The generic CAMP presented below will be sufficient to cover many, if not most, sites. Specific requirements should be reviewed for each situation in consultation with NYSDOH to ensure proper applicability. In some cases, a separate site-specific CAMP or supplement may be required. Depending upon the nature of contamination, chemical-specific monitoring with appropriately-sensitive methods may be required. Depending upon the proximity of potentially exposed individuals, more stringent monitoring or response levels than those presented below may be required. Special requirements will be necessary for work within 20 feet of potentially exposed individuals or structures and for indoor work with co-located residences or facilities. These requirements should be determined in consultation with NYSDOH.

Reliance on the CAMP should not preclude simple, common-sense measures to keep VOCs, dust, and odors at a minimum around the work areas.

Community Air Monitoring Plan

Depending upon the nature of known or potential contaminants at each site, real-time air monitoring for volatile organic compounds (VOCs) and/or particulate levels at the perimeter of the exclusion zone or work area will be necessary. Most sites will involve VOC and particulate monitoring; sites known to be contaminated with heavy metals alone may only require particulate monitoring. If radiological contamination is a concern, additional monitoring requirements may be necessary per consultation with appropriate NYSDEC/NYSDOH staff.

Continuous monitoring will be required for all ground intrusive activities and during the demolition of contaminated or potentially contaminated structures. Ground intrusive activities include, but are not limited to, soil/waste excavation and handling, test pitting or trenching, and the installation of soil borings or monitoring wells.

Periodic monitoring for VOCs will be required during non-intrusive activities such as the collection of soil and sediment samples or the collection of groundwater samples from existing monitoring wells. "Periodic" monitoring during sample collection might reasonably consist of taking a reading upon arrival at a sample location, monitoring while opening a well cap or overturning soil, monitoring during well baling/purging, and taking a reading prior to leaving a sample location. In some instances, depending upon the proximity of potentially exposed individuals, continuous monitoring may be required during sampling activities. Examples of such situations include groundwater sampling at wells on the curb of a busy urban street, in the midst of a public park, or adjacent to a school or residence.

VOC Monitoring, Response Levels, and Actions

Volatile organic compounds (VOCs) must be monitored at the downwind perimeter of the immediate work area (i.e., the exclusion zone) on a **continuous** basis or as otherwise specified. Upwind concentrations should be measured at the start of each workday and periodically thereafter to establish background conditions. The monitoring work should be performed using equipment appropriate to measure the types of contaminants known or suspected to be present. The equipment should be calibrated at least daily for the contaminant(s) of concern or for an appropriate surrogate. The equipment should be capable of calculating 15-minute running average concentrations, which will be compared to the levels specified below.

- If the ambient air concentration of total organic vapors at the downwind perimeter of the work area or exclusion zone exceeds 5 parts per million (ppm) above background for the 15-minute average, work activities must be temporarily halted and monitoring continued. If the total organic vapor level readily decreases (per instantaneous readings) below 5 ppm over background, work activities can resume with continued monitoring.
- If total organic vapor levels at the downwind perimeter of the work area or exclusion zone persist at levels in excess of 5 ppm over background but less than 25 ppm, work activities must be halted, the source of vapors identified, corrective actions taken to abate emissions, and monitoring continued. After these steps, work activities can resume provided that the total organic vapor level 200 feet downwind of the exclusion zone or half the distance to the nearest potential receptor or residential/commercial structure, whichever is less - but in no case less than 20 feet, is below 5 ppm over background for the 15-minute average.
- If the organic vapor level is above 25 ppm at the perimeter of the work area, activities must be shutdown.

All 15-minute readings must be recorded and be available for State (DEC and DOH) personnel to review. Instantaneous readings, if any, used for decision purposes should also be recorded.

Particulate Monitoring, Response Levels, and Actions

Particulate concentrations should be monitored **continuously** at the upwind and downwind perimeters of the exclusion zone at temporary particulate monitoring stations. The particulate monitoring should be performed using real-time monitoring equipment capable of measuring particulate matter less than 10 micrometers in size (PM-10) and capable of integrating over a period of 15 minutes (or less) for comparison to the airborne particulate action level. The equipment must be equipped with an audible alarm to indicate exceedance of the action level. In addition, fugitive dust migration should be visually assessed during all work activities.

- If the downwind PM-10 particulate level is 100 micrograms per cubic meter (mcg/m^3) greater than background (upwind perimeter) for the 15-minute period or if airborne dust is observed leaving the work area, then dust suppression techniques must be employed. Work may continue with dust suppression techniques provided that downwind PM-10 particulate levels do not exceed $150 \text{ mcg}/\text{m}^3$ above the upwind level and provided that no visible dust is migrating from the work area.
- If, after implementation of dust suppression techniques, downwind PM-10 particulate levels are greater than $150 \text{ mcg}/\text{m}^3$ above the upwind level, work must be stopped and a re-evaluation of activities initiated. Work can resume provided that dust suppression measures and other controls are successful in reducing the downwind PM-10 particulate concentration to within $150 \text{ mcg}/\text{m}^3$ of the upwind level and in preventing visible dust migration.

All readings must be recorded and be available for State (DEC and DOH) personnel to review.

June 20, 2000

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APPENDIX D

SOIL BELOW DEVELOPMENT DEPTH MAP

Appendix D

Soil Below Development Depth Map



Appendix E
NYSDEC Allowable Constituent Levels for
Imported Soil

APPENDIX E
NYSDEC CRITERIA FOR IMPORTED SOILS
SITE MANAGEMENT PLAN
FORMER KIPS BAY FUEL TERMINAL
616 FIRST AVENUE, NEW YORK NEW YORK

VOLATILE ORGANIC COMPOUNDS (VOCs)	Residential Use	Restricted Residential Use
1,1,1-Trichloroethane	0.68	0.68
1,1-Dichloroethane	0.27	0.27
1,1-Dichloroethene	0.33	0.33
1,2,4-Trimethylbenzene	3.6	3.6
1,2-Dichlorobenzene	1.1	1.1
1,2-Dichloroethane	0.02	0.02
1,3,5-Trimethylbenzene	8.4	8.4
1,3-Dichlorobenzene	2.4	2.4
1,4-Dichlorobenzene	1.8	1.8
1,4-Dioxane	0.1	0.1
Acetone	0.05	0.05
Benzene	0.06	0.06
Carbon tetrachloride	0.76	0.76
Chlorobenzene	1.1	1.1
Chloroform	0.37	0.37
cis-1,2-Dichloroethene	0.25	0.25
Ethylbenzene	1	1
Methylene Chloride	0.05	0.05
MTBE	0.93	0.93
n-Butylbenzene	12	12
N-Propylbenzene	3.9	3.9
sec-Butylbenzene	11	11
tert-Butylbenzene	5.9	5.9
Tetrachloroethene	1.3	1.3
Toluene	0.7	0.7
trans-1,2-Dichloroethene	0.19	0.19
Trichloroethene	0.47	0.47
Vinyl chloride	0.02	0.02
Xylenes, Total	1.6	1.6

SEMIVOLATILE ORGANIC COMPOUNDS (SVOCs)	Residential Use	Restricted Residential Use
Acenaphthene	98	98
Acenaphthylene	100	100
Anthracene	100	100
Benzo[a]anthracene	1	1
Benzo[a]pyrene	1	1
Benzo[b]fluoranthene	1	1
Benzo[g,h,i]perylene	100	100
Benzo[k]fluoranthene	1	1.7
Chrysene	1	1
Dibenz[a,h]anthracene	0.33	0.33
Dibenzofuran	14	59
Fluoranthene	100	100
Fluorene	100	100
Hexachlorobenzene	0.33	1.2
Indeno[1,2,3-cd]pyrene	0.5	0.5
m-Cresol	0.33	0.33
o-Cresol	0.33	0.33
p-Cresol	0.33	0.33
Naphthalene	12	12
Pentachlorophenol	0.8	0.8
Phenanthrene	100	100
Phenol	0.33	0.33
Pyrene	100	100

METALS	Residential Use	Restricted Residential Use
Arsenic	16	16
Barium	350	400
Beryllium	14	47
Cadmium	2.5	4.3
Chromium, hexavalent	19	19
Chromium, trivalent	36	180
Copper	270	270
Cyanide, Total	27	27
Lead	400	400
Manganese	2000	2000
Mercury	0.73	0.73
Nickel	130	130
Selenium	4	4
Silver	8.3	8.3
Zinc	2200	2480

POLYCHLORINATED BIPHENYLS (PCBs)/PESTICIDES	Residential Use	Restricted Residential Use
Total PCBs	1	1
4,4'-DDD	2.6	13
4,4'-DDE	1.8	8.9
4,4'-DDT	1.7	7.9
Aldrin	0.019	0.097
alpha-BHC	0.02	0.02
beta-BHC	0.072	0.09
Chlordane (alpha)	0.91	2.9
delta-BHC	0.25	0.25
Dieldrin	0.039	0.1
Endosulfan I	NC	NC
Endosulfan II	NC	NC
Endosulfan sulfate	NC	NC
Total Endosulfans	4.8	24
Endrin	0.06	0.06
gamma-BHC (Lindane)	0.1	0.1
Heptachlor	0.38	0.38
Silvex (2,4,5-TP)	3.8	3.8

NOTES:

- 1) Concentrations presented in mg/kg - milligrams per kilogram.
- 2) All levels from 6 NYCRR 375-6. Table 375-6.8(b) Restricted Use Soil Cleanup Objectives, in accordance with 6 NYCRR Part 375-6.7(d)(1)(ii)(b).
- 3) Residential Use allowable levels apply to soils to be placed above Development Depth.
- 4) Restricted Residential Use allowable levels apply to soils to be placed below Development Depth.
- 5) NC - No criterion.

Appendix F

Environmental Easements

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

THIS INDENTURE made this 17th day of August, 2011, between Owner 700 First Realty Company, LLC, having an office c/o Solow Realty & Development Company, LLC at 9 West 57th Street, County of New York, State of New York (the "Grantor"), and The People of the State of New York (the "Grantee"), acting through their Commissioner of the Department of Environmental Conservation (the "Commissioner", or "NYSDEC" or "Department" as the context requires) with its headquarters located at 625 Broadway, Albany, New York 12233,

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to encourage the remediation of abandoned and likely contaminated properties ("sites") that threaten the health and vitality of the communities they burden while at the same time ensuring the protection of public health and the environment; and

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to establish within the Department a statutory environmental remediation program that includes the use of Environmental Easements as an enforceable means of ensuring the performance of operation, maintenance, and/or monitoring requirements and the restriction of future uses of the land, when an environmental remediation project leaves residual contamination at levels that have been determined to be safe for a specific use, but not all uses, or which includes engineered structures that must be maintained or protected against damage to perform properly and be effective, or which requires groundwater use or soil management restrictions; and

WHEREAS, the Legislature of the State of New York has declared that Environmental Easement shall mean an interest in real property, created under and subject to the provisions of Article 71, Title 36 of the New York State Environmental Conservation Law ("ECL") which contains a use restriction and/or a prohibition on the use of land in a manner inconsistent with engineering controls which are intended to ensure the long term effectiveness of a site remedial program or eliminate potential exposure pathways to hazardous waste or petroleum; and

WHEREAS, Grantor, is the owner of real property located at the address of 700 First Avenue in the City of New York, County of New York and State of New York, known and designated on the tax map of the Borough of Manhattan as tax map Block 970 Lot 1, being the same as that property conveyed to Grantor by deed dated May 31, 2005 and recorded in the City Register of the City of New York in Instrument No. CRFN 2005000335189, comprising approximately 4.47 acres, and hereinafter more fully described in the Land Title Survey dated November 10, 2010, which will be attached to the Site Management Plan. The property description (the "Controlled Property") 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 human 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 BCA Index Number: A2-0515-0405, 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) and Commercial as described in 6 NYCRR Part 375-1.8(g)(2)(iii), and any other uses permitted under applicable laws, rules, regulations, codes and/or ordinances to the extent not inconsistent with (x) 6 NYCRR Part 375-1.8(g)(2)(ii) and 6 NYCRR Part 375-1.8(g)(2)(iii) or (y) the other restrictions expressly set forth in Section 2. of this Environmental Easement.

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

(5) 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;

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

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

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

(9) 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 raising livestock or producing animal products for human consumption, 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:

Regional Remediation Engineer
NYSDEC – Region 2
Division of Environmental Remediation
47-40 21st St.
Long Island City, NY 11101
Phone: (718) 482-4995

or

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 annually, or such time as NYSDEC may allow, 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 C2341013
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.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

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

700 First Realty Company, LLC:

By: _____

Print Name: Sheldon H. Solow

Title: President Date: 1/13/2011

Grantor's Acknowledgment

STATE OF NEW YORK)

COUNTY OF New York) ss:

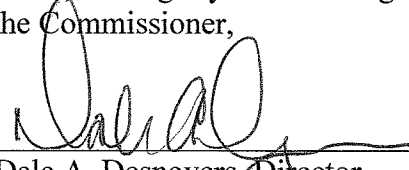
On the 13th day of January, in the year 20 11, before me, the undersigned, personally appeared Sheldon H. Solow, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they 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.

Amalia C. DeLucia
Notary Public - State of New York

AMALIA C. DELUCIA
Notary Public, State of New York
No. 01DE6032868
Qualified in Queens County
Commission Expires November 8, 2013

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,

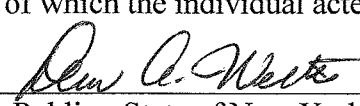
By:


Dale A. Desnoyers, Director
Division of Remediation

Grantee's Acknowledgment

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

On the 17th day of August, in the year 2011, before me, the undersigned, personally appeared Dale Desnoyers, 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

Drew A. Wellette
Notary Public, State of New York
Qualified in Schenectady Co.
No. 01WE6089074
Commission Expires 03/17/ 2015

SCHEDULE A PROPERTY DESCRIPTION

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

BEGINNING at the corner formed by the intersection of the northerly line of East 38th Street with the easterly line of First Avenue;

RUNNING THENCE northerly, along the easterly line of First Avenue, 515 feet 0 inches;

THENCE easterly, parallel with the northerly line of East 38th Street, 411 feet 7 3/8 inches to a point in the westerly line of Franklin D. Roosevelt Drive;

THENCE southerly, along the westerly line of Franklin D. Roosevelt Drive, on the arc of a circle curving to the right having a radius of 2431 feet 8 inches and a central angle of 6° 13' 33 inches, 264 feet 2 5/8 inches to a point of tangency;

THENCE southerly still along the westerly line of Franklin D. Roosevelt Drive, 56 feet 4 1/4 inches to an angle point therein;

THENCE easterly, still along the westerly line of Franklin D. Roosevelt Drive and parallel with the northerly line of East 38th Street, 1 foot 2 3/8 inches to an angle point therein;

THENCE southerly, still along the westerly line of Franklin D. Roosevelt Drive, 200 feet 3 1/8 inches to the corner formed by the intersection of the northerly line of East 38th Street with the westerly line of Franklin D. Roosevelt Drive;

THENCE westerly, along the northerly line of East 38th Street, 336 feet 10 3/8 inches to a point or place of BEGINNING.