

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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In the Matter of a Remedial Program for the  
**Flushing Industrial Park (Eastern) Parcel 1**  
College Point Avenue and 40<sup>th</sup> Road, Queens,  
under Article 27, Title 14 of the Environmental  
Conservation Law by Volunteer  
**C.E. Flushing, LLC**

AMENDED  
BROWNFIELD SITE  
CLEANUP AGREEMENT

Index No. W2-1027-04-10  
Site No. C241051

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**WHEREAS**, C.E. Flushing, LLC, with offices located at 118-35 Queens Boulevard, Forest Hills, New York 11375, is currently participating in the Brownfield Cleanup Program relative to 13.48 acres of real property located NW Corner of College Point Avenue and 40<sup>th</sup> Road, Flushing, Queens County, 11375, at latitude 40.7574E and longitude -73.8337E, and designated Tax Block 5066, Lots 1, 79, and 91 (the "Property"); and

**WHEREAS**, the Site will be developed as four parcels, as designated on the map attached Exhibit "A" as Parcels "1", "2", "3", and "4"; and

**WHEREAS**, Brownfield Site Cleanup Agreement, Index No. W2-1027-04-10, for Site No. C241051, dated December 23, 2004 (the "BCA" or the "Agreement") is applicable to Parcel 1. A metes and bounds description of Site No. C241051 is attached as Exhibit "B"; and

**WHEREAS**, the BCA was amended on June 14, 2005 to add C.E. Flushing Parking, LLC; C.E. Flushing Commercial East, LLC; and C.E. Flushing Residential East I, LLC as Volunteers; and

**WHEREAS**, a certified application was submitted to the Department in March 2006 to add Target Corporation, with offices located at 1000 Nicollet Mall, Minneapolis, MN 55403, as an additional Volunteer to the BCA; and

**WHEREAS**, upon consideration of the factors enumerated in ECL 27-1407(8) and (9), the Department made a determination, based upon consideration of the application to add the Additional Applicant, that such Additional Applicant is eligible to participate in the BCP as a Volunteer as defined in ECL 27-1405(1)(b),

**NOW THEREFORE**, in consideration of and in exchange for the mutual covenants and promises, the parties agree to the following:

1. Target Corporation is added as a Volunteer to the BCA; and
2. The Agreement, the June 14, 2005 Amendment, and this Amendment to the Agreement shall constitute the entire Agreement between the parties with all the terms and conditions of the

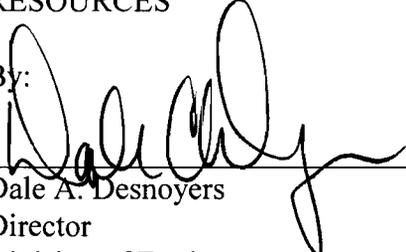
Agreement, except as provided herein, remaining in full force and effect; and

3. The effective date of the Amended Brownfield Site Cleanup Agreement shall be the date it is executed by the Commissioner or the Commissioner's designee.

DATED: DEC 11 2006

DENISE M. SHEEHAN, COMMISSIONER  
NEW YORK STATE DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION AND  
TRUSTEE OF THE STATE'S NATURAL  
RESOURCES

By:



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Dale A. Desnoyers

Director

Division of Environmental Remediation

Volunteer, **C.E. Flushing, LLC**, hereby consents to the issuing and entering of this Agreement, waives Volunteer's right to a hearing herein as provided by law, and agrees to be bound by this Agreement.

**C.E. Flushing, LLC**

By: \_\_\_\_\_

JOSHUA L. MUSS

Title: \_\_\_\_\_

MANAGER

Date: \_\_\_\_\_

9/7/06

STATE OF NEW YORK    )  
                                          ) s.s.:  
COUNTY OF Queens    )

On the 7<sup>th</sup> day of September, in the year 2006, before me, the undersigned, personally appeared JOSHUA L. MUSS, 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.

Diana Niemes  
Signature and office of individual  
taking acknowledgment

DIANA NIEMES  
Notary Public, State of New York  
No. 01NI6125276  
Qualified in Queens County  
Commission Expires April 11, 2009





CONSENT BY VOLUNTEER

Volunteer, **C.E. Flushing Residential East I, LLC**, hereby consents to the issuing and entering of this Agreement, waives Volunteer's right to a hearing herein as provided by law, and agrees to be bound by this Agreement.

**C.E. Flushing Residential East I, LLC**

By: \_\_\_\_\_

JOSHUA L. MUSS

Title: \_\_\_\_\_

MANAGER

Date: \_\_\_\_\_

9/7/06

STATE OF NEW YORK    )  
                                          ) s.s.:  
COUNTY OF Queens    )

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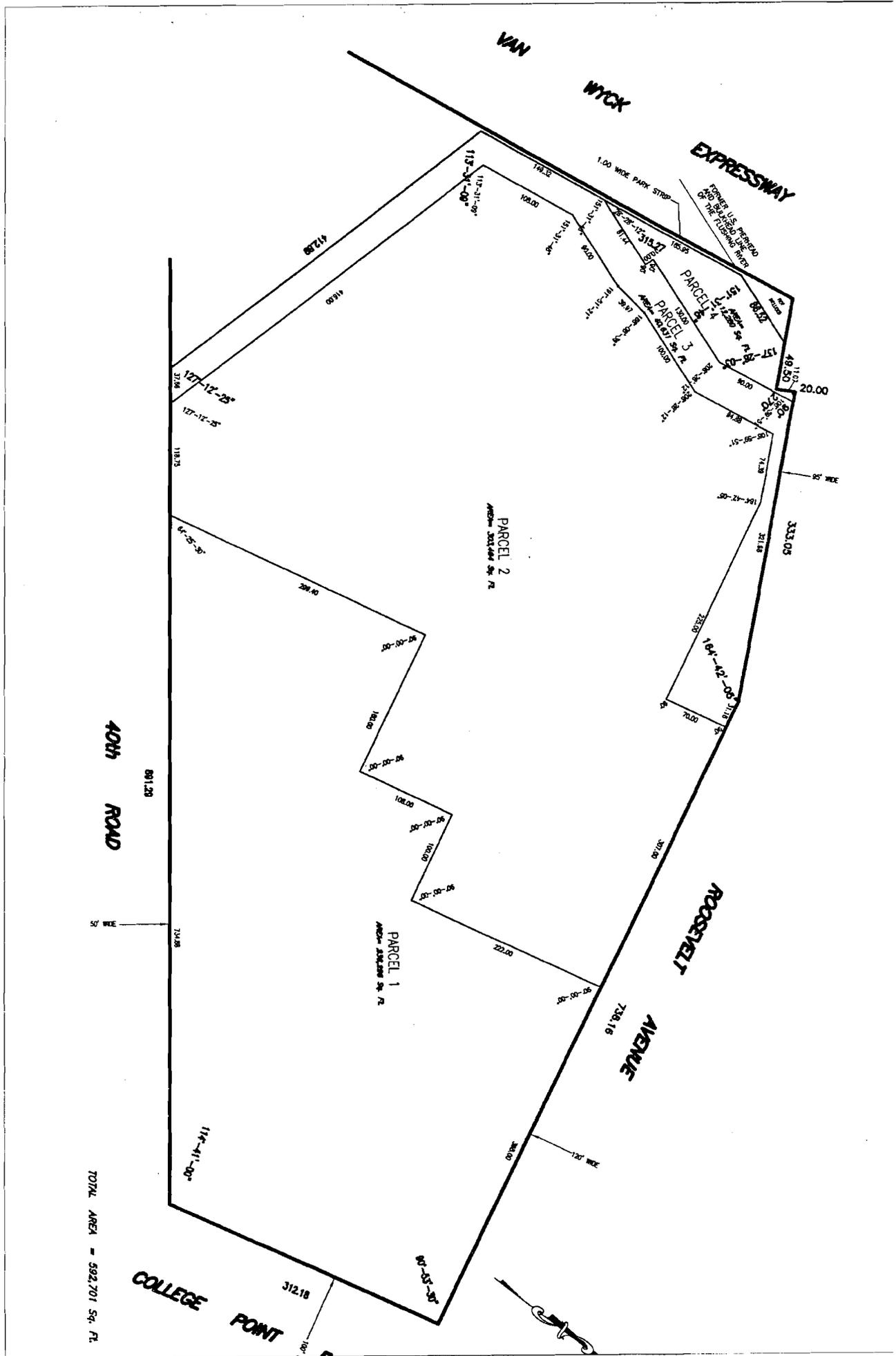
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Signature and office of individual  
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**Exhibit "A"**

**Map**



**Exhibit "B"**

**Metes and Bounds**

**Flushing Industrial Park (Eastern), Parcel 1**  
**BCP Site No. C241051**  
**Metes and Bounds Description**

There follows a suggested technical description of part of the property shown on map # 38448-F prepared by Wohl & O'Mara, LLP.

Beginning at the point formed by the intersection of the southerly side of Roosevelt Avenue (120.00 feet wide) with the westerly side of College Point Boulevard (100.00 feet wide).

- 1) Running thence southerly along said westerly side of College Point Boulevard a distance of 312.18 feet to the point formed by the intersection of said westerly side of College Point Boulevard with the northwesterly side of 40 th. Road.
- 2) Thence southwesterly along said northwesterly side of 40 th. Road 734.88 feet to a point.
- 3) Thence northerly forming an interior angle of 64 degrees 25 minutes 30 seconds and a distance of 299.40 feet to a point.
- 4) Thence easterly forming an interior angle of 90 degrees 00 minutes 00 seconds and a distance of 160.00 feet to a point.
- 5) Thence northerly forming an interior angle of 90 degrees 00 minutes 00 seconds and a distance of 108.00 feet to a point.
- 6) Thence easterly forming an interior angle of 90 degrees 00 minutes 00 seconds and a distance of 100.00 feet to a point.
- 7) Thence northerly and perpendicular to Roosevelt Avenue 222.00 feet to a point on the southerly side of Roosevelt Avenue (120.00 feet wide).
- 8) Thence easterly along southerly side of Roosevelt Avenue (120.00 feet wide) 398.00 feet to the point or place of beginning.