# **APPENDIX D-2**

NYCDEP Easement – Section IV

BLACK: 916 LOTS: 1 + 10

3014-00075

**Execution** Copy

#### **DECLARATION OF EASEMENT**

DECLARATION made this  $\cancel{\mu}$  day of October,  $\cancel{RO15}$  (the "Declaration") by and between HALLETTS FAMITECH LLC, a Delaware limited liability company having an address c/o Royal Realty Corp., One Bryant Park, New York, NY 10036 ( the "Declarant") and THE CITY OF NEW YORK, a municipal corporation having its principal office at City Hall in the Borough of Manhattan ("<u>City</u>") and .

WHEREAS, the above named Declarant is the owner of real property situated at Tax Lot 1, Block 916 and a part of Tax Lot 10, Block 916 on the Tax Map of the City of New York, County of Queens, State of New York, as each is more particularly described in Schedule A annexed (collectively, the "<u>Property</u>"); and

WHEREAS, the President of the Borough of Queens has presented to the City Planning Commission of the City of New York ("City Planning Commission") for consideration a map, bearing No. 5019, dated February 5, 2013 (the "Mapping Action"), showing, amongst other things, the elimination, discontinuance and closing of 26th Avenue and 27th Avenue between 1st Street and the U.S. Pierhead and Bulkhead Line (the "26th Avenue" and the "27th Avenue", respectively, and hereinafter, collectively, the "Streets"); and,

WHEREAS, the City Planning Commission, deeming it in the public interest, adopted a resolution on August 21, 2013, Calendar No. 30 (C 130068 MMQ), that favors the changes in the City's street system in accordance with the Mapping Action, provided that such changes shall not become effective until each of the co-applicants thereto,

Record + Return: Nyc Law isept. Corporation Counsel 100 Church Street New Jork Ny 10007 MHN EMILY ROYEN

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including Declarant, execute that certain Mapping Agreement dated August 20, 2014 among Halletts A Development Company, LLC, as predecessor in interest of Declarant, the New York City Housing Authority ("NYCHA"), and the City; and

WHEREAS, the Council of The City of New York, by resolution passed on October 9, 2013, approved the decision of the City Planning Commission on ULURP No. C 090486 ZSQ (L.U. No. 907) for the grant of a special permit for the mixed-use development of the Property, the NYCHA Campus (as defined in the Mapping Agreement) and other surrounding parcels in a large-scale general development, and for other related land use actions, including the Mapping Action, and approved the plans and drawings attached thereto (collectively, as the same may be in effect from time to time, the "ULURP Approval"); and

WHEREAS, situated in the bed of the Streets are certain City sewers and utilities under the jurisdiction of the City's Department of Environment Protection ("DEP"), and pursuant to the Mapping Action, the change to the City map is conditioned on the Declarant granting an easement/corridor extending over all City sewers and utilities for maintenance and protection purposes, as more particularly set forth in the DEP Requirements Letter, as defined in and attached to the Mapping Agreement;

WHEREAS, the Declarant proposes to grant the City an easement within the bounds of a portion of the Property, as more fully described below, for the purposes stated herein; and

NOW THEREFORE, the Declarant does hereby establish an easement in, over and through the a portion of the Property for the purpose of allowing the City the right to enter into and upon the easement to maintain, repair or replace such City sewers and utilities. Said easement area within the Property being more particularly described in Schedule B-1 and B-2, each attached hereto (collectively, the "<u>DEP Sewer Easement</u> <u>Areas</u>"); and

FURTHERMORE, this Declaration shall run with the land and shall be binding upon the heirs, successors, and assigns of the Declarant, and shall remain in full force and effect in perpetuity, and may be terminated only upon the written approval by the City.

IT IS FURTHER covenanted, understood and agreed by the Declarant and the City, the following:

Declarant grants a permanent and perpetual easement over the existing (a) combined storm sewer in 26th Avenue (the "26th Avenue Sewer Easement") for purposes of access, maintenance, repair and replacement of sewers and utilities lying therein as more particularly described in the Mapping Agreement. Said 26th Avenue Sewer Easement shall provide the City with the right to enter upon the 26th Avenue Sewer Easement area with personnel, material and equipment. The City will cooperate and endeavor to perform this work during reasonable business hours and upon three (3) days prior notice to the Declarant, unless for emergency purposes due to the threatened endangerment of the health, safety, or welfare of the public, to construct, reconstruct, lay, relay, maintain, operate and inspect such facilities, with such access points to the DEP facilities being as identified on the plans and drawings forming a part of the ULURP Approval that are pertinent to the DEP facilities. In the event DEP accesses its facilities to perform work thereat, upon the completion of any such work that disturbs any nonstandard features in the easement area, DEP shall restore the asphalt or concrete disturbed in the paved areas and shall bring to grade and seed in such disturbed unpaved

areas. In accordance with the standards of DEP, existing or proposed manholes within said easement area shall be brought flush to the finished surface grade and provided with an approved manhole cover at no cost or expense to the City. Other than such structures situated on 26th Avenue as identified in the plans and drawings forming a part of the ULURP Approval, no other structure of any kind shall be erected over the sewer and utility easement areas, nor shall any trees be planted therein (other than as shown in the plans and drawings of the ULURP Approval), nor shall the same be used for storage purposes. Other than as shown in the plans and drawings of the ULURP Approval, the sewer and utility easement areas described herein shall be kept open and unobstructed for access by the City. Said 26th Avenue Sewer Easement area is more particularly described in the annexed Attachment B-1; and,

(b) Declarant grants to the City a permanent and perpetual easement over the existing combined storm, interceptor and regulator sewers, and the Combined Sewer Overflow (CSO) in 27th Avenue (the "27th Avenue Sewer Easement") for purposes of access, maintenance, repair and replacement of sewers and utilities lying therein as more particularly described in the Mapping Agreement. Said 27th Avenue Sewer Easement area shall provide the City with the right to enter upon the 27th Avenue Sewer Easement area with personnel, material and equipment. The City will cooperate and endeavor to perform this work during reasonable business hours and upon three (3) days prior notice to the Declarant, unless for emergency purposes due to the threatened endangerment of the health, safety, or welfare of the public, to construct, reconstruct, lay, relay, maintain, operate and inspect such facilities, with such access points to the City facilities being as identified on the plans and drawings forming a part of the ULURP Approval, that are

pertinent to the City facilities. In the event DEP accesses its facilities to perform work thereat, upon the completion of any such work that disturbs any nonstandard features in the easement area, DEP shall restore the asphalt or concrete disturbed in the paved areas and shall bring to grade and seed in such disturbed unpaved areas. In accordance with the standards of DEP, existing or proposed manholes within said easement area shall be brought flush to the finished surface grade and provided with an approved manhole cover at no cost or expense to the City. Other than such structures situated on 27th Avenue as identified in the plans and drawings forming a part of the ULURP Approval, no other structure of any kind shall be erected over the sewer and utility easement areas, nor shall any trees be planted therein (other than as shown in the plans and drawings of the ULURP Approval), nor shall the same be used for storage purposes. Other than as shown in the plans and drawings of the ULURP Approval, the sewer and utility easement areas described herein shall be kept open and unobstructed for access by the City. Said 27th Avenue Sewer Easement area is more particularly described in the annexed Attachment B-2.

All the covenants, terms and conditions in this Declaration shall be binding upon the heirs, successors or assigns of the Declarant herein, with the same force and effect as if they were in every case named and expressed herein.

The easements declared and granted in this Declaration may not be amended, terminated, or modified without the prior written consent of the City.

Declarant hereby covenants and agrees that any deed for the conveyance of the subject Property or any portion thereof shall contain a provision referencing this Declaration and the establishment of the easements described herein within a portion of Tax Lot 1, Block 916 and part of Tax Lot 10, Block 916 in the Borough of Queens, New York for the benefit of the City and all necessary parties.

Declarant agrees to record this Agreement in the City Registrar's Office, County of Queens, within (30) days from the date first mentioned above.

The Declarant, his/her heirs, successors and assigns do hereby covenant that the City, including DEP, shall be held harmless from any damages or accident and from any and all claims of any person or persons due to the granting of any easements herein.

# [REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS THEREOF, this Declaration has been duly executed by the Declarant as of the date first written above.

#### HALLETTS FAMITECH LLC

- By: Halletts Members LLC, a Delaware limited liability company, its Sole Member
- By: The Durst Manager LLC, a New York limited liability company, its Manager
- By: SRDA Manager, LLC, a New York limited liability company, its Managing Member

By: Name: Alexander Durst Title: Co-Vice President

#### THE CITY OF NEW YORK

By:	
Name:	
Title:	

Approved as to Form:

Acting Corporation Counsel

IN WITNESS THEREOF, this Declaration has been duly executed by the Declarant as of the date first written above.

# HALLETTS FARMITECH LLC By: Halletts Members LLC, a Delaware limited liability company, its Sole Member By: The Durst Manager LLC, a New York limited liability company, its Manager SRDA Manager, LLC, a New York By: limited liability company, its Managing Member By: Name: Alexander Durst Title: Co-Vice President THE CITY OF NEW YORK By: Name: Anthony Shorris Title: First Deputy mayor

Approved as to Form:

Emilip Keyes

Acting Corporation Counsel

## STATE OF NEW YORK ) ) ss: COUNTY OF Queens )

On the <u>23</u><sup>cd</sup> day of <u>October</u> in the year 2014 before me, the undersigned, a

Notary Public in and for said state, personally appeared <u>Deckarcler</u> <u>Quippersonally</u> known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is subscribed to the within instrument and acknowledged to me that he or she executed the same in his or her capacity, and that by his or her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

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Tanya Alexandra Grimaldo Notary Public, State of New York No. 01GR6256808 Qualified in Queens County Commission Expires Mar. 5, 2016

STATE OF NEW YORK ) ) ss: COUNTY OF 

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2014 before me, the undersigned, a

Notary Public in and for said state, personally appeared \_\_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is subscribed to the within instrument and acknowledged to me that he or she executed the same in his or her capacity, and that by his or 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 ) ) ss: COUNTY OF Nork )

On the  $2^{5}$  day of  $2^{5}$  in the year 2014 before me, the undersigned, a

Notary Public in and for said state, personally appeared  $\underline{A_{\text{reflexend}}}$ , personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is subscribed to the within instrument and acknowledged to me that he or she executed the same in his or her capacity, and that by his or her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

12 T. There		
Notary Public		HENRY T BERGER .
		Notary Public, State of New York No. 31-4 <u>518672</u>
		Qualified in No County
		Commission Expires November 30, 19
		2017
STATE OF NEW YORK	)	
COUNTY OF	) ss: )	
On the	day of	in the year 2014 before me, the

Notary Public in and for said state, personally appeared \_\_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is subscribed to the within instrument and acknowledged to me that he or she executed the same in his or her capacity, and that by his or her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public	

# Schedule A The Property

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### CHICAGO TITLE INSURANCE COMPANY

Title No.: 3614-00028

#### LEGAL DESCRIPTION

PARCEL 1;

All that certain plot, plece or parcel of land, situate, lying and being in the Borough and County of Queens, City and State of New York, bounded and described according to The Long Island City Commissioner's Map Standard as follows:

BEGINNING at the corner formed by the intersection of the southerly side of 27th Avenue, 60 feet wide, and the westerly side of 1st Street, 70 feet wide, as said Street and Avenue are shown on The Final Topographical Map of the City of New York FOR the Borough of Queens.

RUNNING THENCE southerly along the westerly side of 1st Street,

South 07 degrees 2 minutes 20 seconds East, 232.50 feet;

THENCE westerly on a course forming an exterior angle of 90° degrees 05 minutes 40 seconds with the westerly side of 1st Street and part of the distance through party walls, 276.98 Feet;

THENCE in a northerly and northeasterly direction along a line forming a radius of 1589.12 feet, 241.59 feet (Deed), 241.75 feet (Actual) to the southerly side of 27th Avenue;

THENCE easterly along the southerly side of 27th Avenue,

North 84 degrees 03 minutes 40 seconds East, 235.16 feet to the corner formed by the intersection of the southerly side of 27th Avenue, and the westerly side of 1st Street, the point or place of BEGINNING.

(FOR INFORMATION ONLY: BLOCK 490, LOT 1)

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-LEGAL DESCRIPTION-

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## CHICAGO TITLE INSURANCE COMPANY

Title No.: 3614-00028

de:

#### LEGAL DESCRIPTION

PARCEL 2:

ALL that certain plot, piece or parcel of land and land now or formerly under the waters of the East River, situate, lying and being in the Counties of New York and Queens, City and State of New York, bounded and described as follows:

BEGINNING at the corner formed by the intersection of the westerly side of 1st Street, formerly Hills Street, as now laid out 60 feet wide, with the northerly side of 27th Avenue, formerly Franklin Street, as now laid out, 60 feet wide;

RUNNING THENCE westerly along the northerly side of 27th Avenue,

South 84 degrees 03 minutes 40 seconds West, a distance of 246.74 feet to the westerly line of the grant of land under water to Stephen B. Halsey, dated March 8, 1886 and described in Letters Patent dated December 23, 1970 recorded in the Office of the Register of the County of Queens, on April 22, 1971 in Reel 470 Page 1731;

THENCE along said westerly line,

North 3 degrees 18 minutes 04 seconds East. a distance of 97.31 feet to the northerly line of said Grant to Halsey and described in said Letters Patent recorded in Reel 470 page 1731;

THENCE along said northerly line,

North 84 degrees 03 minutes 30 seconds East, a distance of 3.35 feet to the westerly line of the grant of land under water to Pearl-Wick Corporation described in Letters of Patent dated September 26, 1973, recorded December 11, 1973 in Reel 722 Page 1262;

THENCE along said last mentioned westerly line.

North 4 degrees 14 minutes 30 seconds West, a distance of 101.26 feet to the prolongation of the division line between the property of Pearl-Wick Corporation and the property now or formerly of Brent Associates, Inc.;

THENCE easterly along said prolonged division line,

North 84 degrees 03 minutes 40 seconds East, and on a line forming an interior angle of 91 degrees 25 minutes 00 seconds with the westerly side of 1st Street, a distance of 219.89 feet to the westerly side of 1st Street;

THENCE southerly along the westerly side of 1st Street.

South 7 degrees 21 minutes 20 seconds East, a distance of 197.33 feet to the corner aforesaid, at the point or place of BEGINNING.

(FOR INFORMATION ONLY: BLOCK 916, LOT 1)

-LEGAL DESCRIPTION CONTINUED-

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### CHICAGO TITLE INSURANCE COMPANY

Title No.: 3614-00028

#### LEGAL DESCRIPTION

PARCEL 3:

ALL that certain plot, piece or parcel of land, situate lying and being in Long Island City. Borough and County of Queens, City and State of New York, in the First Ward, bounded and described as follows:

BEGINNING at a point on the westerly side of First Street (Mills Street), distant 181.33 feet northerly from the corner formed by the intersection of the westerly side of First Street with the northerly side of 27th Avenue (Franklin Street), being shown on the L.I.C. Commissioner's Map, said point of beginning also being, 197.33 feet northerly from said northerly side of 27th Avenue as it presently exists;

RUNNING THENCE westerly parallel with 27th Avenue on a course of,

South 84 degrees 03 seconds 40 minutes West, 213.08 feet to the pier and bulkhead line of the East River, as shown on the Survey of Robert E. Carline, guaranteed to Title Guarantee and Trust Company, on August 2, 1946;

THENCE along said pier bulkhead line, the following two (2) courses and distance:

1) North 7 degrees 11 minutes WEST, 69 feet per record (69.07 feet per survey),

2) THENCE,

North 9 degrees 37 minutes 10 seconds East, 259.60 feet to the southerly side of 26th Avenue (Orchard Street);

RUNNING THENCE easterly along the southerly side of Orchard Street,

North 84 degrees 03 minutes 40 seconds East, 137.05 feet to the corner formed by the intersection of the southerly side of 26th Avenue with the westerly side of First Street;

RUNNING THENCE southerly along the westerly side of First Street,

SOUTH 7 degrees 21 minutes 20 degrees East, 319.17 feet per record (319.24 feet per survey) to the point or place of BEGINNING.

- (FOR INFORMATION ONLY: BLOCK 916, P/O LOT 10)

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-LEGAL DESCRIPTION CONTINUED-

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# Schedule B-1 The DEP Sewer Easement Areas

"26<sup>th</sup> Avenue Sewer Easement Area" (Metes and Bounds follows this page)



35 Technology Drive Warren, NJ 07059 Tel. 908.668.0099 Fax. 908.668.9595 www.cpasurvey.com

> AUGUST 20, 2014 C08003.02

#### METES & BOUNDS DESCRIPTION SANITARY SEWER EASEMENT - SOUTHERLY PORTION OF 26<sup>TH</sup> AVENUE BOROUGH & COUNTY OF QUEENS CITY AND STATE OF NEW YORK

BEGINNING AT A POINT ON THE WESTERLY LINE OF 1<sup>ST</sup> STREET (F.K.A. MILLS STREET, 60 FEET WIDE), EXTENDED, SAID POINT BEING DISTANT ON A COURSE SOUTH 07 DEGREES - 21 MINUTES - 20 SECONDS EAST, A DISTANCE OF 30.01 FEET FROM A POINT FORMED BY THE INTERSECTION OF THE NORTHERLY LINE OF 26<sup>TH</sup> AVENUE (F.K.A. ORCHARD STREET, BOULEVARD, 60 FEET WIDE) AND THE WESTERLY LINE OF 1<sup>ST</sup> STREET, EXTENDED, RUNNING THENCE FROM SAID POINT AND PLACE OF BEGINNING;

- 1. ALONG SAID WESTERLY LINE OF 1<sup>ST</sup> STREET, EXTENDED, SOUTH 07 DEGREES 21 MINUTES 20 SECONDS EAST, A DISTANCE OF 13.60 FEET TO A POINT, THENCE;
- 2. ALONG A LINE THROUGH 26<sup>TH</sup> AVENUE, ALSO BEING THROUGH THE INTERIOR OF LOT 10, BLOCK 916 AS SHOWN ON THE NEW YORK CITY DIGITAL TAX MAP, SOUTH 84 DEGREES - 03 MINUTES - 40 SECONDS WEST, A DISTANCE OF 146.11 FEET TO A POINT, THENCE;
- 3. ALONG THE HARBOR COMMISSIONER'S LINE, A.K.A. THE PIER AND BULKHEAD TIE ESTABLISHED BY CHAPTER 763 LAWS OF 1857 AS DESCRIBED IN LETTERS PATENT BOOK 42 PAGE 632, NORTH 05 DEGREES - 55 MINUTES - 27 SECONDS EAST, A DISTANCE OF 13.90 FEET TO A POINT, THENCE;
- 4. ALONG THE CENTERLINE OF 26<sup>TH</sup> AVENUE AND THE DIVIDING LINE BETWEEN LOT 10, BLOCK 916 AND LOT 1, BLOCK 913 AS SHOWN ON THE NEW YORK CITY DIGITAL TAX MAP, NORTH 84 DEGREES 03 MINUTES 40 SECONDS EAST, A DISTANCE OF 142.93 FEET TO THE POINT AND PLACE OF BEGINNING.

#### CONTAINING 1,965 SQUARE FEET OR 0.045 ACRES

THIS DESCRIPTION WAS PREPARED WITH REFERENCE TO A TITLE REPORT PREPARED BY FIDELITY NATIONAL TITLE INSURANCE COMPANY, TITLE NO. 08-7406-18610-Q(A), EFFECTIVE DATE: MAY 15, 2012.

THIS DESCRIPTION WAS PREPARED WITH REFERENCE TO A MAP ENTITLED "SEWER EASEMENT EXHIBIT, 26<sup>TH</sup> AVENUE WEST OF FIRST STREET, BOROUGH AND COUNTY OF QUEENS, CITY AND STATE OF NEW YORK," DATED AUGUST 20, 2014, PREPARED BY CONTROL POINT ASSOCIATES, INC.

OF NEW CONTROL POINT ASSOCIATES, INC. LYNCH тони р STATE OF NEW YORK PROFESSIONAL LAND SURVEYOR #50720 ART

JPL/Cap F:\suiveys\2008\C06003\C08003.02\MAB\MAB - SEVER EASEMENT -SOUTHERLY PORTION OF 26TH AVENUE-08-20-14.docx

Prepared By: CAP Reviewed By: APE

Branch Office

New Britain Corporate Center, 1600 Manor Drive, Suite 210, Chalfont, PA 18914 tel: 215.712.9800 fax: 215.712.9802

Branch Office 352 Turnpike Road, Suite 201, Southborough, MA 01772 tel: 508.948.3000 fax: 508.948.3003

Professional Land Surveying and Consulting Services

# Schedule B-2 The DEP Sewer Easement Areas

"27<sup>th</sup> Avenue Sewer Easement Area" (Metes and Bounds follows this page)



35 Technology Drive Warren, NJ 07059 Tel. 908.668.0099 Fax. 908.668.9595 www.cpasurvey.com

> AUGUST 20, 2014 C08003.02

#### METES & BOUNDS DESCRIPTION SANITARY SEWER EASEMENT - SOUTHERLY PORTION OF 26<sup>TH</sup> AVENUE BOROUGH & COUNTY OF QUEENS CITY AND STATE OF NEW YORK

BEGINNING AT A POINT ON THE WESTERLY LINE OF 1<sup>ST</sup> STREET (F.K.A. MILLS STREET, 60 FEET WIDE), EXTENDED, SAID POINT BEING DISTANT ON A COURSE SOUTH 07 DEGREES - 21 MINUTES - 20 SECONDS EAST, A DISTANCE OF 30.01 FEET FROM A POINT FORMED BY THE INTERSECTION OF THE NORTHERLY LINE OF 26<sup>TH</sup> AVENUE (F.K.A. ORCHARD STREET, BOULEVARD, 60 FEET WIDE) AND THE WESTERLY LINE OF 1<sup>ST</sup> STREET, EXTENDED, RUNNING THENCE FROM SAID POINT AND PLACE OF BEGINNING;

- 1. ALONG SAID WESTERLY LINE OF 1<sup>ST</sup> STREET, EXTENDED, SOUTH 07 DEGREES 21 MINUTES 20 SECONDS EAST, A DISTANCE OF 13.60 FEET TO A POINT, THENCE;
- 2. ALONG A LINE THROUGH 26<sup>TH</sup> AVENUE, ALSO BEING THROUGH THE INTERIOR OF LOT 10, BLOCK 916 AS SHOWN ON THE NEW YORK CITY DIGITAL TAX MAP, SOUTH 84 DEGREES - 03 MINUTES - 40 SECONDS WEST, A DISTANCE OF 146.11 FEET TO A POINT, THENCE;
- 3. ALONG THE HARBOR COMMISSIONER'S LINE, A.K.A. THE PIER AND BULKHEAD TIE ESTABLISHED BY CHAPTER 763 LAWS OF 1857 AS DESCRIBED IN LETTERS PATENT BOOK 42 PAGE 632, NORTH 05 DEGREES - 55 MINUTES - 27 SECONDS EAST, A DISTANCE OF 13.90 FEET TO A POINT, THENCE;
- 4. ALONG THE CENTERLINE OF 26<sup>TH</sup> AVENUE AND THE DIVIDING LINE BETWEEN LOT 10, BLOCK 916 AND LOT 1, BLOCK 913 AS SHOWN ON THE NEW YORK CITY DIGITAL TAX MAP, NORTH 84 DEGREES 03 MINUTES 40 SECONDS EAST, A DISTANCE OF 142.93 FEET TO THE POINT AND PLACE OF BEGINNING.

#### CONTAINING 1,965 SQUARE FEET OR 0.045 ACRES

THIS DESCRIPTION WAS PREPARED WITH REFERENCE TO A TITLE REPORT PREPARED BY FIDELITY NATIONAL TITLE INSURANCE COMPANY, TITLE NO. 08-7406-18610-Q(A), EFFECTIVE DATE: MAY 15, 2012.

THIS DESCRIPTION WAS PREPARED WITH REFERENCE TO A MAP ENTITLED "SEWER EASEMENT EXHIBIT, 26<sup>TH</sup> AVENUE WEST OF FIRST STREET, BOROUGH AND COUNTY OF QUEENS, CITY AND STATE OF NEW YORK," DATED AUGUST 20, 2014, PREPARED BY CONTROL POINT ASSOCIATES, INC.

OF NEW CONTROL POINT ASSOCIATES, INC. ÒHN P LYNCH STATE OF NEW YORK JA E PROFESSIONAL LAND SURVEYOR #50720

JPL/Cap P:\surveys\2008\C08003.02\K&B\K&B - SEWER EASEMENT -SOUTHERLY FORTION OF 26TH AVENUE-08-20-14.docx Prepared By: CAT

Prepared By: 111 Reviewed By: 111 Branch Office New Britain Corporate Center, 1600 Manor Drive, Suite 210, Chalfont, PA 18914 tel: 215.712.9800 fax: 215.712.9802

Branch Office 352 Turnpike Road, Suite 201, Southborough, MA 01772 tel: 508.948.3000 fax: 508.948.3003

Professional Land Surveying and Consulting Services

# **APPENDIX D-3**

Permits – Section IV

### NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

**Division of Environmental Permits, Region 2** 47-40 21st Street, Long Island City, NY 11101 P: (718) 482-4997 I F: (718) 482-4975 www.dec.ny.gov

August 25, 2015

Jonathan Drescher Halletts Vendee LLC C/O Royal Realty Corp. One Bryant Park, 49<sup>th</sup> Floor New York, NY 10036

Re: NYSDEC Permit No. 2-6301-00649/00004 Halletts Point Residential Development Queens, NY ECL Article 15 - Excavation & Fill in Navigable Waters ECL Article 25 - Tidal Wetlands 6 NYCRR Part 608 - Water Quality Certification NOTICE OF PERMIT TRANSFER

Dear Mr. Drescher:

Enclosed is your approved "Application for Permit Transfer" which transfers permit #2-6301-00649/00004 from Halletts A Development Company, LLC to Halletts Vendee LLC.

Enclosed is a copy of the permit. Please read it carefully. You are required to comply with all conditions of the permit.

Please note that Special Condition 3 of the permit requires submittal of the attached "Notice of Intent to Commence Work" at least 5 days prior to start of the permitted activity.

If you have any technical questions please contact Matthew James of the Bureau of Marine Resources at (718) 482-6464. If you have any administrative questions please contact me at (718) 482-4997.

Sincerely,

Tamara Greco Environmental Analyst II



Department of Environmental Conservation

# **PERMIT** Under the Environmental Conservation Law (ECL)

**Permittee and Facility Information** 

# Permit Issued To:

Halletts Vendee LLC

One Bryant Pk 49th Fl

New York, NY 10036 (212) 257-6612

**Facility:** HALLETTS POINT RESIDENTIAL - 1ST ST & 27TH AVE 27-50 1ST ST|B 490 L 1, 11 B 916 L 1, 10 B 915 L 6 ASTORIA, NY 11102

Halletts Vendee LLC One Bryant Park 49th Floor New York, NY 10036 (212) 257-6612

Facility Location: in QUEENS COUNTY Village: QueensFacility Principal Reference Point: NYTM-E: 589.642NYTM-N: 4514.288Latitude: 40°46'28.9"Longitude: 73°56'15.9"Project Location: 27-50 1st St, 27-02 1st St, 26-40 1st St, 26-02 1st St

**Authorized Activity:** Construction of eight high-rise residential and commercial buildings on eight tax lots on the Halletts Point peninsula on the East River, with associated utilities, roadway improvements, landcaping, paving and a waterfront esplanade. The project site is located in Astoria, Queens, and is approximately 9-2/3 acres in size, wrapping around the peninsula on the waterfront sides of 2nd Street and 27th Avenue, inland to 8th Street. As mitigation for impacts to regulated tidal wetlands and other marine habitats associated with construction of the waterfront esplanade and other on-water features of the project, the applicant shall perform on-site and off-site tidal wetland and marine habitat creation and enhancement.

### **Permit Authorizations**

Tidal Wetlands - Under Artic				
Permit ID 2-6301-00649/00004				
New Permit	Effective Date: <u>1/10/2014</u>	Expiration Date: <u>12/31/2019</u>		
Modification # 1	Effective Date: <u>8/25/2015</u>	Expiration Date: <u>12/31/2019</u>		
Water Quality Certification - Under Section 401 - Clean Water Act				
Permit ID 2-6301-00649/00005	5			
New Permit	Effective Date: <u>1/10/2014</u>	Expiration Date: <u>12/31/2019</u>		
Modification # 1	Effective Date: <u>8/25/2015</u>	Expiration Date: <u>12/31/2019</u>		
Excavation & Fill in Navigable Waters - Under Article 15, Title 5				
Permit ID 2-6301-00649/00006	5			



New Permit Modification # 1 Effective Date:  $\frac{1/10/2014}{8/25/2015}$ 

Expiration Date:  $\frac{12/31/2019}{12/31/2019}$ 

## **NYSDEC** Approval

By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, and all conditions included as part of this permit.

Permit Administrato	r: STEPHEN A WATTS, Acting Regional Permit Admin	strator
Address:	NYSDEC Region 2 Headquarters	
	47-40 21st St /	
	Long Island City, XY 11101 -5401	
Authorized Signatur	e: AllAIA	Date 0

3/25/2015

**Permit Components** 

NATURAL RESOURCE PERMIT CONDITIONS

WATER QUALITY CERTIFICATION SPECIFIC CONDITION

GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

# NATURAL RESOURCE PERMIT CONDITIONS - Apply to the Following Permits: TIDAL WETLANDS; WATER QUALITY CERTIFICATION; EXCAVATION & FILL IN NAVIGABLE WATERS

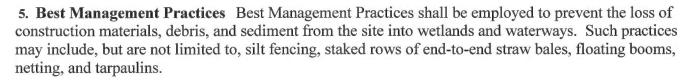
**1. Conformance With Plans** All activities authorized by this permit must be in strict conformance with the approved plans submitted by the applicant or applicant's agent as part of the permit application. Such approved plans were prepared by see condition below.

2. Conformance with Plans All work shall conform with plans received by DEC on 12/11/2013, entitled, Halletts Point, Astoria, Queens, New York, prepared by Lanagan Engineering, six sheets, drawings no. 11.10, 11.20, 11.30, 11.40, 11.51, 11.52, and 11.60, respectively dated 6/13/12, 3/15/12, 4/10/12, 4/10/12, 4/10/12, and 6/7/12.

**3. Notice of Commencement of Work** At least five days before work starts on site, permittee shall submit to DEC the enclosed "Notice of Commencement of Work" form completely filled out.

4. **Permit Sign** The enclosed permit sign shall be displayed on the construction site in a prominent place and protected from the elements for the duration of work on site.

#### NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION Facility DEC ID 2-6301-00649



6. Soil Disturbance All areas of soil disturbance resulting from this project shall be stabilized immediately following project completion or prior to perit expiration, whichever comes first. Approved methodologies are:

A. Stabilization of entire disturbed areas with appropriate native vegetation (grasses, etc).

B. Stabilized as per specifications on approved plans or plans cited in this permit.

C. Temporarily stabilized and seeded with native plant species, stabilization done with hay or straw mulch or jute matting or other similar natural fiber within one week after final grading. Temporary stabilization to be maintained until a mature vegetative cover is established.

7. **Containment of Soils** All disturbed areas wheresoil will be temporarily exposed or stockpiled for longer than one week shall be contained by a continuous line of staked straw bales and silt fencing, placed on the seaward side between the soil piles and the wetland, waterway or naturally vegetated protected buffer area. Tarpaulins shall be used to cover soil piles not being actively worked.

8. Concrete Leachate During construction, concrete or leachate shall not be allowed to escape or be discharged into wetlands and waterways, nor shall washings from transit mix trucks, mixers, or other devices be allowed to enter tidal wetlands, vegetated regulated tidal wetland adjacent areas, or protected buffer areas.

**9. No Disturbance of Vegetated Tidal Wetlands** There shall be no disturbance to vegetated tidal wetlands, water bodies, vegetated tidal wetlands adjacent areas or protected buffer areas as a result of the permitted activities.

10. No Discharge or Runoff or Effluent There shall be no discharge of runoff or other effluent over or through any bulkhead or shoreline stabilization structure, or into any tidal wetland, regulated tidal wetland adjacent area, or protected buffer area, unless specifically authorized herein.

**11. No Interference With Navigation** There shall be no unreasonable interference with navigation by the work herein authorized.

12. Precautions Against Contamination of Waters All necessary precautions shall be taken to preclude contamination of any wetland or waterway by suspended solids, sediments, fuels, solvents, lubricants, epoxy coatings, paints, concrete, leachate or any other environmentally deleterious materials associated with the project.

13. No Equipment Below Mean High Water Equipment operation or storage below mean high water is strictly prohibited.

14. No Beach Excavation Excavation of the beach or other regulated adjacent areas or wetland areas to obtain fill or stone materials is prohibited.

**15. Fill** All fill shall consist of clean sand, gravel or soil. Use of materials including solid wastes such as asphalt, slag, fly-ash, recycled concrete aggregate (RCA), broken concrete, or construction and demolition (C&D) debris, is strictly prohibited.

16. Removal of Solid Wastes and Construction Debris All debris and other solid waste or excess construction materials shall be completely removed from the site each day and taken to a properly licensed disposal facility. No construction debris or materials are allowed within regulated tidal wetlands, vegetated regulated tidal wetlands adjacent areas, or protected buffer areas.

17. **Planting Survival** All plants, as shown on drawing referenced in Special Condition No. 2 above. shall be monitored for survival for a minimum of three growing seasons. If mortality or bare areas occur, dead plants shall be replaced. Permittee shall notify DEC (47-40 21st Street, Long Island City, NY 11101, attn: Marine Resources) at the conclusion of each growing season by no later than December 31st of each year on the condition and survival rates of each planting, and what remedial or replacement planting work will be done the following spring.

18. State Not Liable for Damage The State of New York shall in no case be liable for any damage or injury to the structure or work herein authorized which may be caused by or result from future operations undertaken by the State for the conservation or improvement of navigation, or for other purposes, and no claim or right to compensation shall accrue from any such damage.

19. State May Order Removal or Alteration of Work If future operations by the State of New York require an alteration in the position of the structure or work herein authorized, or if, in the opinion of the Department of Environmental Conservation it shall cause unreasonable obstruction to the free navigation of said waters or flood flows or endanger the health, safety or welfare of the people of the State, or cause loss or destruction of the natural resources of the State, the owner may be ordered by the Department to remove or alter the structural work, obstructions, or hazards caused thereby without expense to the State, and if, upon the expiration or revocation of this permit, the structure, fill, excavation, or other modification of the watercourse hereby authorized shall not be completed, the owners, shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may require, remove all or any portion of the watercourse. No claim shall be made against the State of New York on account of any such removal or alteration.

20. State May Require Site Restoration If upon the expiration or revocation of this permit, the project hereby authorized has not been completed, the applicant shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may lawfully require, remove all or any portion of the uncompleted structure or fill and restore the site to its former condition. No claim shall be made against the State of New York on account of any such removal or alteration.

# WATER QUALITY CERTIFICATION SPECIFIC CONDITIONS

1. Water Quality Certification The NYS Department of Environmental Conservation hereby certifies that the subject project will not contravene effluent limitations or other limitations or standards under Sections 301, 302, 303, 306 and 307 of the Clean Water Act of 1977 (PL 95-217) provided that all of the conditions listed herein are met.

# **GENERAL CONDITIONS - Apply to ALL Authorized Permits:**

**1. Facility Inspection by The Department** The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71-0301 and SAPA 401(3).

The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when requested by the Department.

A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site or facility. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.

2. Relationship of this Permit to Other Department Orders and Determinations Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

3. Applications For Permit Renewals, Modifications or Transfers The permittee must submit a separate written application to the Department for permit renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing. Submission of applications for permit renewal, modification or transfer are to be submitted to:

Regional Permit Administrator NYSDEC Region 2 Headquarters 47-40 21st St Long Island City, NY11101 -5401

**4.** Submission of Renewal Application The permittee must submit a renewal application at least 30 days before permit expiration for the following permit authorizations: Excavation & Fill in Navigable Waters, Tidal Wetlands, Water Quality Certification.

5. Permit Modifications, Suspensions and Revocations by the Department The Department reserves the right to exercise all available authority to modify, suspend or revoke this permit. The grounds for modification, suspension or revocation include:

- a. materially false or inaccurate statements in the permit application or supporting papers;
- b. failure by the permittee to comply with any terms or conditions of the permit;
- c. exceeding the scope of the project as described in the permit application;
- d. newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;
- e. noncompliance with previously issued permit conditions, orders of the commissioner, any

provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

**6. Permit Transfer** Permits are transferrable unless specifically prohibited by statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.

# **NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS**

### Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification

The permittee, excepting state or federal agencies, expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under Article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

### Item B: Permittee's Contractors to Comply with Permit

The permittee is responsible for informing its independent contractors, employees, agents and assigns of their responsibility to comply with this permit, including all special conditions while acting as the permittee's agent with respect to the permitted activities, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law as those prescribed for the permittee.

### Item C: Permittee Responsible for Obtaining Other Required Permits

The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-ofway that may be required to carry out the activities that are authorized by this permit.

### Item D: No Right to Trespass or Interfere with Riparian Rights

This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.

N.Y.S.D.E.C. - REGION 2

AUG 1 2 2015



Application For Permit Transfer and Application for Transfer of Pending Application MENTAL PERMITS

NOTE: Please read ALL instructions before completing this application. Please TYPE or PRINT clearly in ink.

FART I - TRANSPER	E (New Owner/Operat	or/Lessee/Applicant) Con	pletes:
1. List Permit Number(s) And Their Effective And Expiration 2-6301-00649/00004	n Dates:	List Pending Applicat	tion Nümber(s)
<ol> <li>Name Of Transferee: Halletts Vendee LLC</li> <li>Mailing Address: One Bryant Park, 49th Floor</li> <li>Post Office City, State, Zip Code: New York, NY, 10036</li> </ol>	Telephone Number ([ (212) 257-6612 Email: HallettsAstor	ria@durst.org If	ransferee is a/an: (check all that apply)  Owner  Coverator  Lessee  Applicant other than an individual, provide axpayer ID Number:  46-5402813
3. Name Of Facility/Project: Halletts Point Residential Development Location (or Street Address, P.O. City, State, Zip Code, if a 27-50 1st Street, 27-02 1st Street, 26-40 1st Street, 26-02 Astoria, NY 11102 Town / Village / City: New York 5. Has Work Begun On The Project?	pplicable): Maili 1st Street One Post Nev	acility Contact Name: nathan Drescher ing Address: Bryant Park, 49th Floor Office City, State, Zip Code v York, NY, 10036	Telephone Number (Daytime): (212) 257-6552 Email: HallettsAstoria@durst.org
Yes ☐ No ☑ If "No," proposed starting date: 20 If there will be any modifications to the current or propose 6. CERTIFICATION: This certifies that the Transferee authorized by the permits identified above or propose application(s) and understands and will comply with all of Facility operations/project scope/discharges/emissions hereby affirm that under penalty of perjury that information	seed operation or constru- seeks to be the legal d in applications identi- conditions in the referen- will remain the same a ion provided on this for	ly responsible party for op ified above. The Transfer ced permit(s) and supports as authorized or as propos m and all attachments subr	ttach a statement specifying the details. erations or project development either ee has a copy of the permit(s) and/or the content of referenced application(s). ed in pending applications. Further, I mitted herewith is true to the best of my
knowledge and belief. False statements made herein are Printed Name and Title of Transferee	er, Authorized Signatory	,	Date \$ 10 /2015
PART - TRANSFEROR (Pre	a di tanggan tanggan derintak		
1. Name Of Transferor: Halletts A Development Company, LLC	Telephone Number ([ ( 201 ) 460-344(		other than an individual, provide axpayer ID Number: 26-1595959
Mailing Address: One Meadowlands Plaza, Suite 803 Post Office City, State, Zip Code: East Rutherford, NJ 07073	Email: rschenkel@lir		
2. Name Of Facility/Project, if different from Facility Name	in Part 1:		
3. CERTIFICATION: This certifies that ownership, operating the party identified as the Transferee on <u>May 21, 2</u> obligations of the permits, approvals, or applications idea Printed Name and Title of Transferor <u>Joel Bergstein, M</u>	tified above.		is form i will be / i was conveyed to is conveyance includes the rights and
Signature of Transferor			Date8/6/15
PART 3 - PERMIT TRANSFER VALIDA	ION SECTION - Depart	tment Of Environmental C	Conservation Completes:

#### NOTICE OF INTENT TO COMMENCE WORK

Date:

NYSDEC Marine Resources Attn. Habitat Supervisor N.Y.S.D.E.C Region 2 Office 47-40 21st Street Long Island City, N.Y. 11101

Re: NYSDEC Permit No. 2-6301-00649/00004 Halletts Point Residential Development Queens, NY

**Dear Habitat Supervisor:** 

In accordance with Natural Resource Condition 3 of the referenced permit, I hereby serve notice to commence work on \_\_\_\_\_\_, 20\_\_\_\_.

This is also to certify that, having read this entire permit, I am fully aware of and understand the general and natural resource conditions therein, and agree to comply with all such conditions further understand that prior to undertaking any modification to the subject work, I must seek and receive written approval of the NYSDEC Regional Permit Administrator.

Signature of Permittee

Signature of Contractor

Name of Permittee (please print)

Name of Contractor (please print)

**Street Address of Contractor** 

City, State, & Zip Code of Contractor

**Telephone Number of Contractor** 

WARNING

The permittee and his contractor (if any) are required to follow all permit conditions. Violations of the permit may lead to legal action, including the imposition of substantial monetary fines and corrective work.

cc: Environmental Permits

# New York State Department of Environmental Conservation

**ENOTICE** 

# The Department of Environmental Conservation (DEC) has issued permit(s) pursuant to the Environmental Conservation Law for work being conducted at this site. For further information regarding the nature and extent of work approved and any Departmental conditions on it, contact the Regional Permit Administrator listed below. Please refer to the permit number shown when contacting the DEC.

Regional Permit Administrator

Pe	rm	it	Number	_
ге		п	number	-

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12/31/2019

2-6301-00649/00004

Expiration Date

Stephen A. Watts II 47-40 21<sup>st</sup> Street LIC, NY 11101 (718) 482-4997

NOTE: This notice is NOT a permit

95-20-1 (8/87)-9d