

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



2006041700404001001E21EA

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RECORDING AND ENDORSEMENT COVER PAGE

PAGE 1 OF 15

Document ID: 2006041700404001

Document Date: 04-10-2006

Preparation Date: 04-17-2006

Document Type: DECLARATION

Document Page Count: 13

PRESENTER:

DANIEL GREENE
100 CHURCH STREET
NEW YORK, NY 10007
212-788-1568
dgreene@law.nyc.gov

RETURN TO:

DANIEL GREENE
100 CHURCH STREET
NEW YORK, NY 10007
212-788-1568
dgreene@law.nyc.gov

PROPERTY DATA

Borough	Block	Lot	Unit	Address
BROOKLYN	8156	1	Entire Lot	10237 FARRAGUT ROAD
Property Type: INDUSTRIAL BUILDING				

CROSS REFERENCE DATA

CRFN _____ or Document ID _____ or _____ Year _____ Reel _____ Page _____ or File Number _____

PARTIES

PARTY 1:

CITY OF NEW YORK
1 CENTRE STREET
NEW YORK, NY 10007

☒ Additional Parties Listed on Continuation Page

FEES AND TAXES

Mortgage		Recording Fee: EXEMPT	
Mortgage Amount:	\$ 0.00	Affidavit Fee:	\$ 0.00
Taxable Mortgage Amount:	\$ 0.00	NYC Real Property Transfer Tax Filing Fee:	\$ 0.00
Exemption:		NYS Real Estate Transfer Tax:	\$ 0.00
TAXES: County (Basic):	\$ 0.00		
City (Additional):	\$ 0.00		
Spec (Additional):	\$ 0.00		
TASF:	\$ 0.00		
MTA:	\$ 0.00		
NYCTA:	\$ 0.00		
Additional MRT:	\$ 0.00		
TOTAL:	\$ 0.00		

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

Recorded/Filed 04-17-2006 17:17

City Register File No.(CRFN):

2006000212089

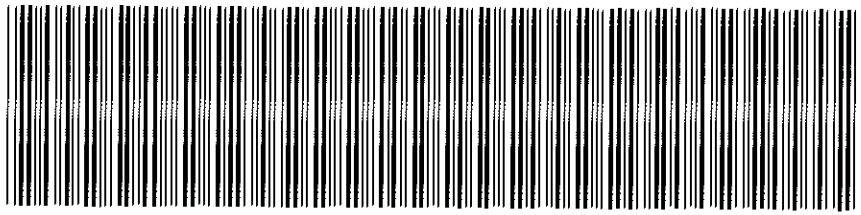


Annette M. Hill

City Register Official Signature

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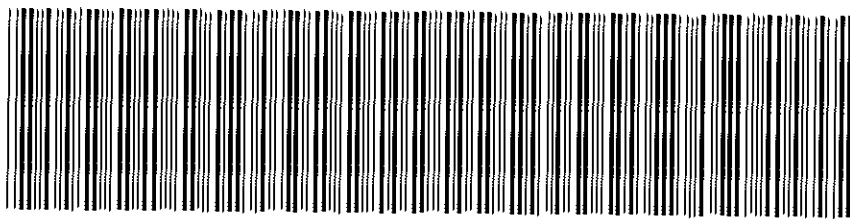
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TASF:	\$ 0.00		
MTA:	\$ 0.00		
NYCTA:	\$ 0.00		
Additional MRT:	\$ 0.00		
TOTAL:	\$ 0.00		

NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER



2006041700404001001C236A

RECORDING AND ENDORSEMENT COVER PAGE (CONTINUATION) PAGE 2 OF 15

Document ID: 2006041700404001

Document Date: 04-10-2006

Preparation Date: 04-17-2006

Document Type: DECLARATION

PARTIES

PARTY I:

NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERV
625 BROADWAY
ALBANY, NY 12233

DECLARATION OF COVENANTS AND RESTRICTIONS

THIS COVENANT is made the 10th day of April 2006, by the City of New York (the "City"), a municipal corporation organized and existing under the laws of the State of New York and having an office for the transaction of business at the New York City Department of Citywide Administrative Services, 1 Centre Street, 17th Floor South, New York, NY 10007, in favor of the New York State Department of Environmental Conservation ("Department"), an agency of the State of New York, with offices at 625 Broadway, Albany, New York 12233;

WHEREAS, the City of New York is the owner of a parcel of real property which is located in the Borough of Brooklyn and is on Tax Block 8156, Lot 1 in the City and State of New York and is part of the lands acquired by the City on March 1, 1963 by a condemnation order issued by the Kings County Supreme Court, the specificities of which are further described and recited in the March 13, 1963 title vesting letter from George Newman, Corporation Counsel of the City of New York to William Morlock, Director of Property Records of the New York City Department of Real Estate attached here to as Exhibit "A."; and

WHEREAS, this property is the subject of a Voluntary Cleanup Agreement entitled "In the Matter of the Implementation of a Remedial Response Program for 107-23 Farragut Road, Brooklyn, New York, by Federal Express Corporation and Cargex Brooklyn Limited Partnership", Index No. W2-0835-98-10 ("Agreement").

NOW, THEREFORE, the City of New York, for itself and its successor, volunteers and/or assigns, covenants that:

First, the realty subject to this Declaration of Covenants and Restrictions is known as the Former Duralab Site (hereinafter referred to as the "Site") as shown on a map attached hereto as Exhibit "B" and made part hereof, and consists of the parcel of land, in the Borough of Brooklyn, County of Kings, State of New York, together with the building and improvements thereon hereafter erected, identified Tax Block 8156, Lot 1, and more particularly bounded and described as follows:

BEGINNING at the intersection of the northwesterly line of Farragut Road and the southwesterly line of East 108th Street, proceeding thence along the northwesterly line of Farragut Road on a course South 49° 38' 33" West, 487.00 feet to a point; THENCE along a course North 40° 21' 27" West, 468.94 feet to the intersection with the easterly line of the BMT (Canarsie Line) R.O.W.; THENCE along the easterly line of the BMT R.O.W. on a course North 24° 53' 47" East, 174.93 feet to a point; THENCE along a curve to the left, radius 1037.50 feet a distance of 285.35 feet to a point; THENCE on a course North 60° 27' 57" East, 90.18 feet to the point of intersection with the southwesterly line of East 108th Street; THENCE along the southwesterly line of East 108th Street on a course South 40° 21' 27" East, 678.58 feet to the point of origin.

Second, unless prior approval by the Department or, if the Department shall no longer exist, any New York State agency or agencies subsequently created to protect the environment of the State and the health of the State's citizens, hereinafter referred to as the "Relevant Agency," is first obtained, there shall be no excavation at the Site which threatens the integrity of the pavement or building foundations or which results in unacceptable human exposure to contaminated soils;

Third, soil contamination, if encountered during future construction or demolition activities, shall be managed and, if warranted, disposed of off-site at an approved and permitted landfill in accordance with regulations adopted by the Department or Relevant Agency

Fourth, the Site shall not be used for purposes other than for the contemplated use as a distribution facility for the Federal Express Corporation or other restricted-commercial or restricted-industrial uses without an express written waiver of such prohibition by the Department or Relevant Agency. For purposes of this Declaration of Covenants and Restrictions, "restricted-commercial use" and "restricted-industrial use" mean as follows:

(I) "Restricted-commercial use" means a land use for the primary purpose of buying, selling or trading of merchandise or services.

(a) restricted-commercial uses include, but are not limited to:

(1) warehouses; building supply facilities; retail gasoline stations; automobile service stations; automobile dealerships; retail warehouses; repair and service establishments for appliances and other goods; professional offices; college classroom, laboratory, administrative or other non-residential buildings; banks and credit unions; office buildings; retail businesses selling food or merchandise; parking facilities; and

(2) passive recreational uses, such as golf courses, bike or walking paths, tennis courts, green space or other public uses with limited potential for soil contact.

(II) "Restricted-industrial use" means a land use for the primary purpose of manufacturing, production, fabrication or assembly process and ancillary services.

(a) restricted-industrial uses include, but are not limited to: power plants; manufacturing facilities such as metalworking shops, plating shops, blast furnaces, coke plants, oil refineries, factories, chemical plants and plastics plants; assembly plants; non-public airport areas; limited access highways; railroad switching yards; and marine port facilities.

(III) Categorically excluded from the restricted-commercial and restricted-industrial use categories are any and all residential uses including, but not

limited to, single family homes, apartment complexes, townhouse developments, and/or condominiums; day care facilities; schools (with the exception of college classroom, laboratory, administrative or other non-residential buildings); college residential buildings and other educational institution residential buildings; active recreational uses, such as playgrounds, picnic areas, playing fields or other public uses with a reasonable potential for soil contact; vegetable gardens; and nursing homes, elder care and other long-term health care facilities.

Fifth, prior to the placement of additional full time enclosed offices, not including the creation of temporary office space or office space for any employee whose primary work activity is other than working from the office in the part of the building that is currently used as a warehouse and is more fully described on the building plan attached hereto as Exhibit "C," the owner or its tenant shall notify the Department of the Relevant Agency and, if requested by the Department or the Relevant Agency, shall conduct an assessment of VOC soil gas concentrations at several representative locations within the building. If the soil gas concentrations are within the limits established by the Human Health Risk Assessment for this Site and are protective of public health and the environment, then the proposed building use changes may take place. If the VOC soil gas concentrations are not protective of human health and the environment, the owner or its tenants and the Department or Relevant Agency will assess the need for additional monitoring or limitations on building use changes;

Sixth, the owner or its tenant shall submit an annual letter report to the Department or Relevant Agency which shall state whether there has been a building change to other than restricted-commercial or restricted-industrial uses and whether there has been a transfer of ownership of the leasehold interest in the Site. Such annual report will be submitted for five years from the date of this Declaration, following which a report will only be submitted if there has been a building use change to other than restricted-commercial or restricted-industrial uses or if there is a transfer of ownership of the leasehold interest in the Site;

Seventh, the groundwater underlying the Site shall not be used for drinking water or industrial use unless prior approval is granted by the Department or Relevant Agency;

Eighth, the Department or Relevant Agency may enter and inspect the Site in a reasonable manner and at reasonable times to assure compliance with the above-stated restrictions;

Ninth, this declaration is and shall be deemed a covenant and shall run with the land and shall be binding on all future owners of the Site, and provides that the owner and its successors and assigns consent to the enforcement by the Department or the Relevant Agency of the covenants and restrictions, and hereby covenant not to contest the authority of the Department or the Relevant Agency to seek enforcement.

Tenth, this declaration may be modified by mutual agreement of the owner, any tenants and sub-tenants holding leases covering at least 50% of the usable space in the building located on the Site, unless such tenant or sub-tenant expressly waives this right in their lease or sub-lease agreement, and the Department or Relevant Agency.

IN WITNESS WHEREOF, the undersigned has executed this instrument the day written below.

Rui Fränster

Department of Citywide Administrative
Services *Deputy Commissioner*

Sworn to before me
this 10th day of April, 2006

Nina Milanos

Notary Public

NINA MILANOS
Notary Public, State of New York
No. 02MI4957561
Qualified in New York County
Commission Expires 01/25/2010

Approved as to form
this 21st day of March, 2006

Steven Stein Cosh

Acting Corporation Counsel

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

Almeida
(Notary Public) ~~Strike-out~~ (Commissioner of Deeds)

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

(Notary Public)←~~Strike-out~~→(Commissioner of Deeds)

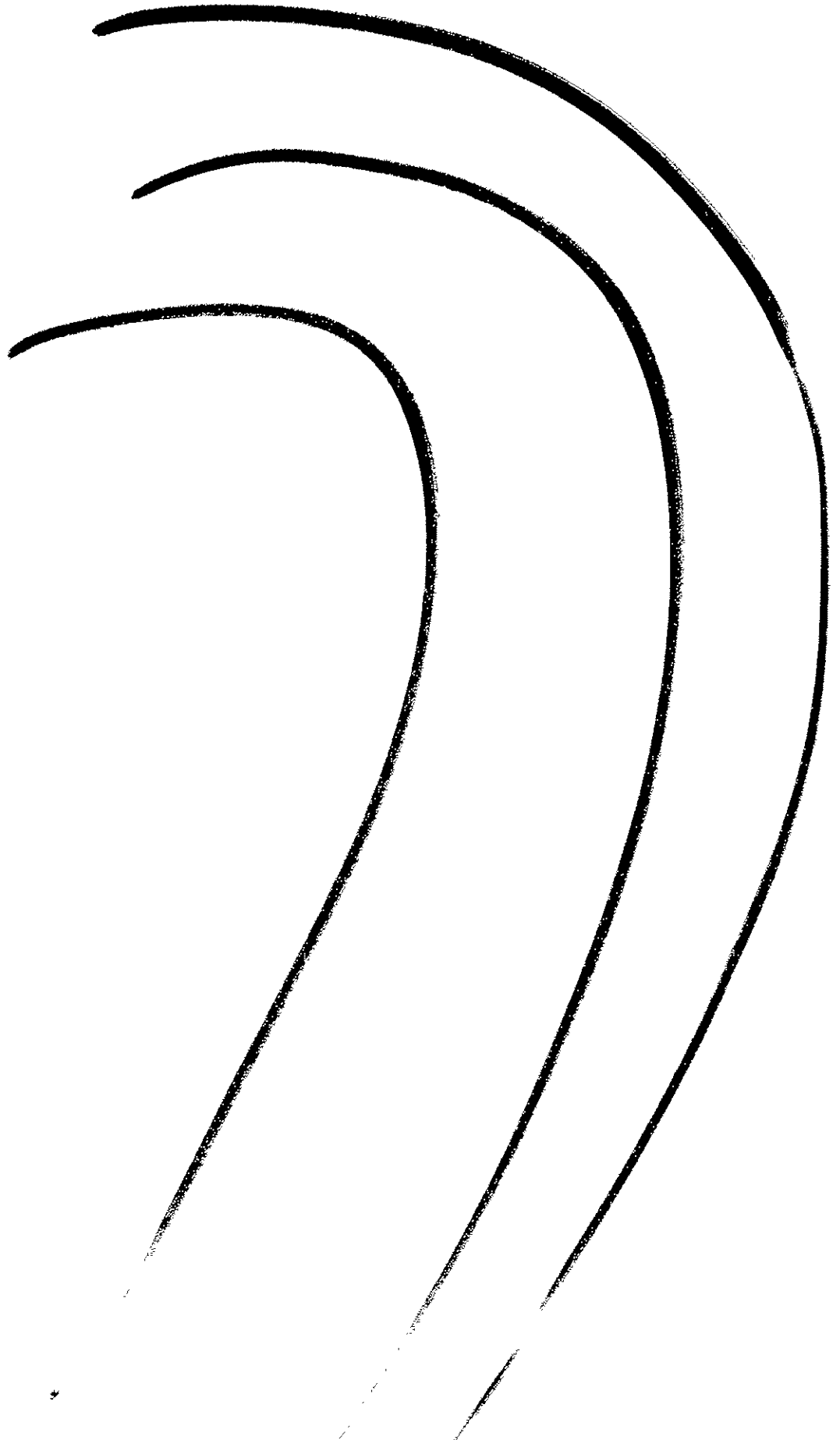


Exhibit "A"

FILE PHOTO P

LEO A. LARKIN
CORPORATION COUNSELTHE CITY OF NEW YORK
LAW DEPARTMENT
MUNICIPAL BUILDING
NEW YORK 7, N.Y.

Card Filed

DEA

4/1/65

Entered in City Property

5-9-63

24

RE #261

REFERRED TO

MAR 18 1965
MAR 19 10:49
DEPT. OF REAL ESTATEMr. William Morlock
Director, Property Records
Department of Real Estate
2 Lafayette Street
New York, N.Y.

Re: In the Matter of the Application of
THE CITY OF NEW YORK, relative to acquiring title
in fee simple absolute to the real property
required for a project known as
FLA HILLS URBAN INDUSTRIAL PARK
within the area bounded by Linden Boulevard,
Van Sinderen Avenue, East 108th Street,
Farragut Road, East 99th Street, Foster Avenue,
East 101st Street, Avenue M, Rockaway Avenue,
and the southerly right-of-way line of the
Long Island Railroad, Bay Ridge Division,
including all streets not heretofore acquired
by the City of New York, excluding the B.M. to
Canarsie Line, right-of-way, part of Tax Lot
No. 1 Block 3879, Tax Lot No. 40 and part of
Tax Lot No. 12, Block 3880, and all streets
heretofore acquired by the City of New York
in the Borough of Brooklyn, City of New York

S i r :

Please be informed that title in fee to all the real
property included within the above-described proceeding
vested in The City of New York on March 1, 1963, the date of
the entry of the Court order granting the application to
condemn, pursuant to a resolution of the Board of Estimate
adopted on October 25, 1962 (Ord. No. 4).

COPY IN CENTRAL FILE

Yours truly,

George Newman

Acting Corporation Counsel

SEE
NEXT
PAGE FOR BLOCK 4 LOT #3

Brooklyn

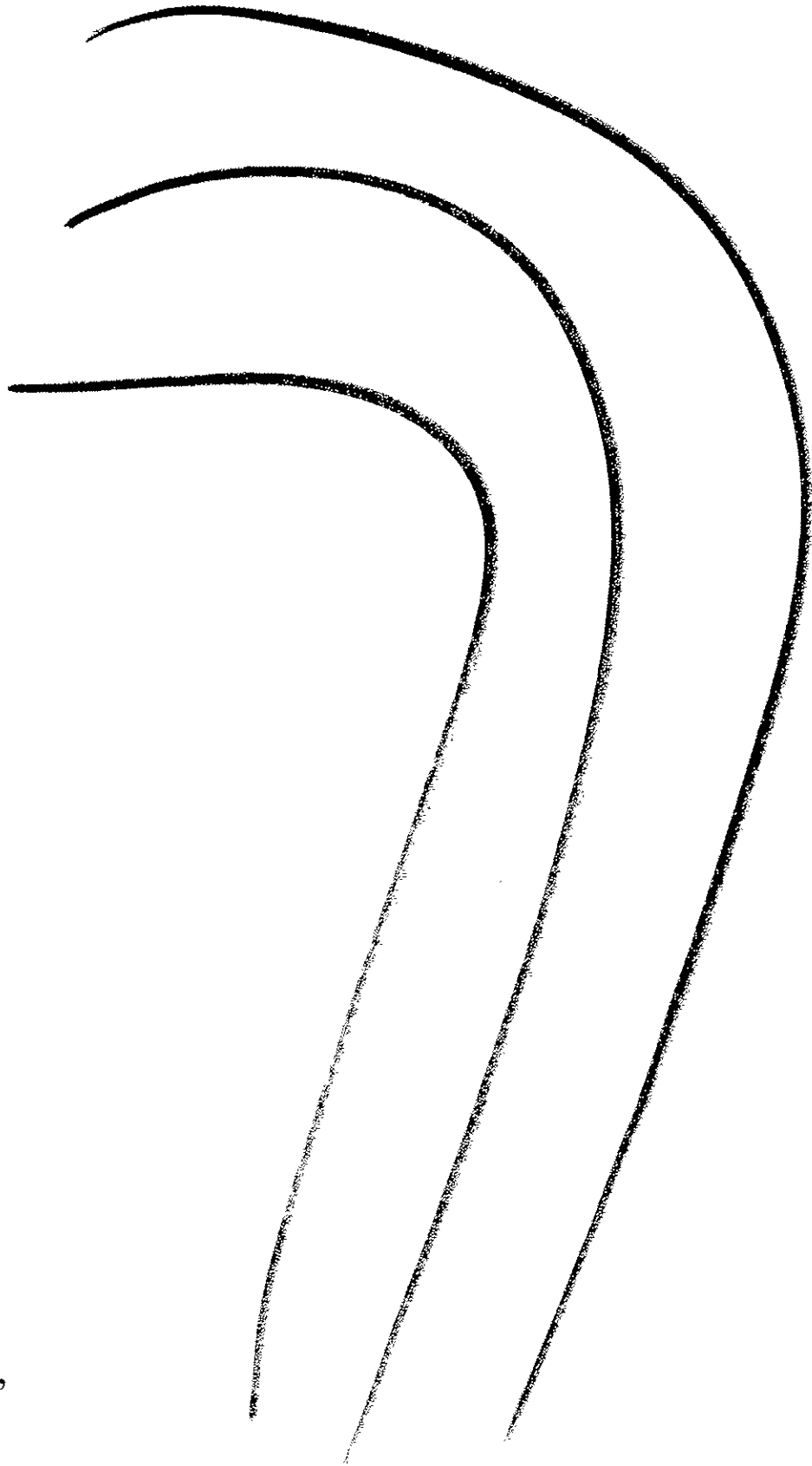


Exhibit “B”

SEE SEC. 15

SEE VOL. 1

SEE SEC. 12

SEE VOL. 5

SEE SEC. 12

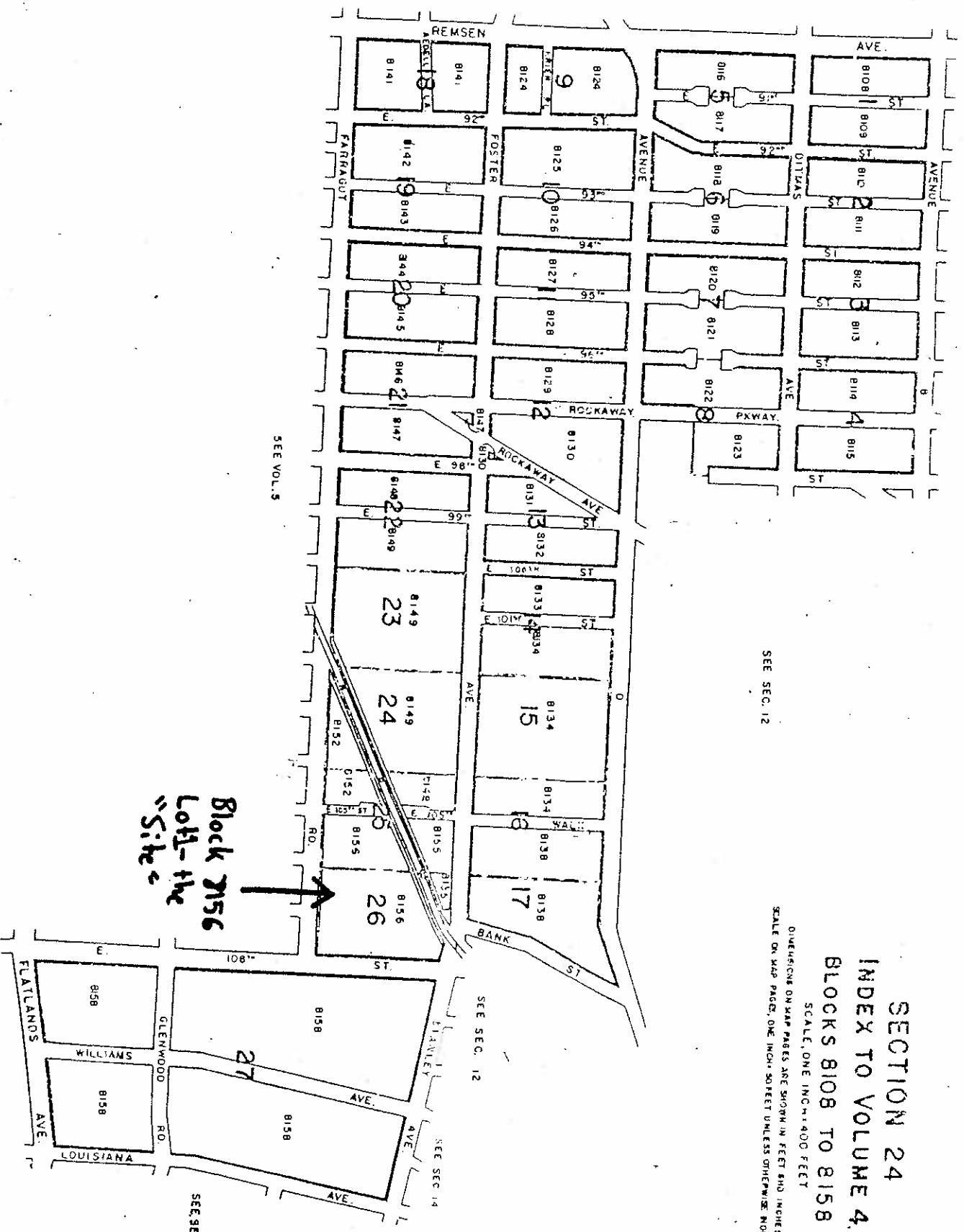
SEE SEC. 14

SEE SEC. 1

SECTION 24
INDEX TO VOLUME 4.
BLOCKS 8108 TO 8158

OVERLAP ON MAP PAGES ARE SHOWN IN FEET AND INCHES
SCALE ON MAP PAGE, ONE INCH = 50 FEET UNLESS OTHERWISE NOTED

Block 8156
Left- the
"Site"



FOSTER

AVE.

8155

(41)

399-64
BL.
8156

119-148

202101

38733

101

30

201

174111

8156

E.

108TH

ST

SEE PAGE 27

BL LOT NEW DROP

SEE PAGE 25

FARRAGUT

RD.

487

6787

SEE 1

26

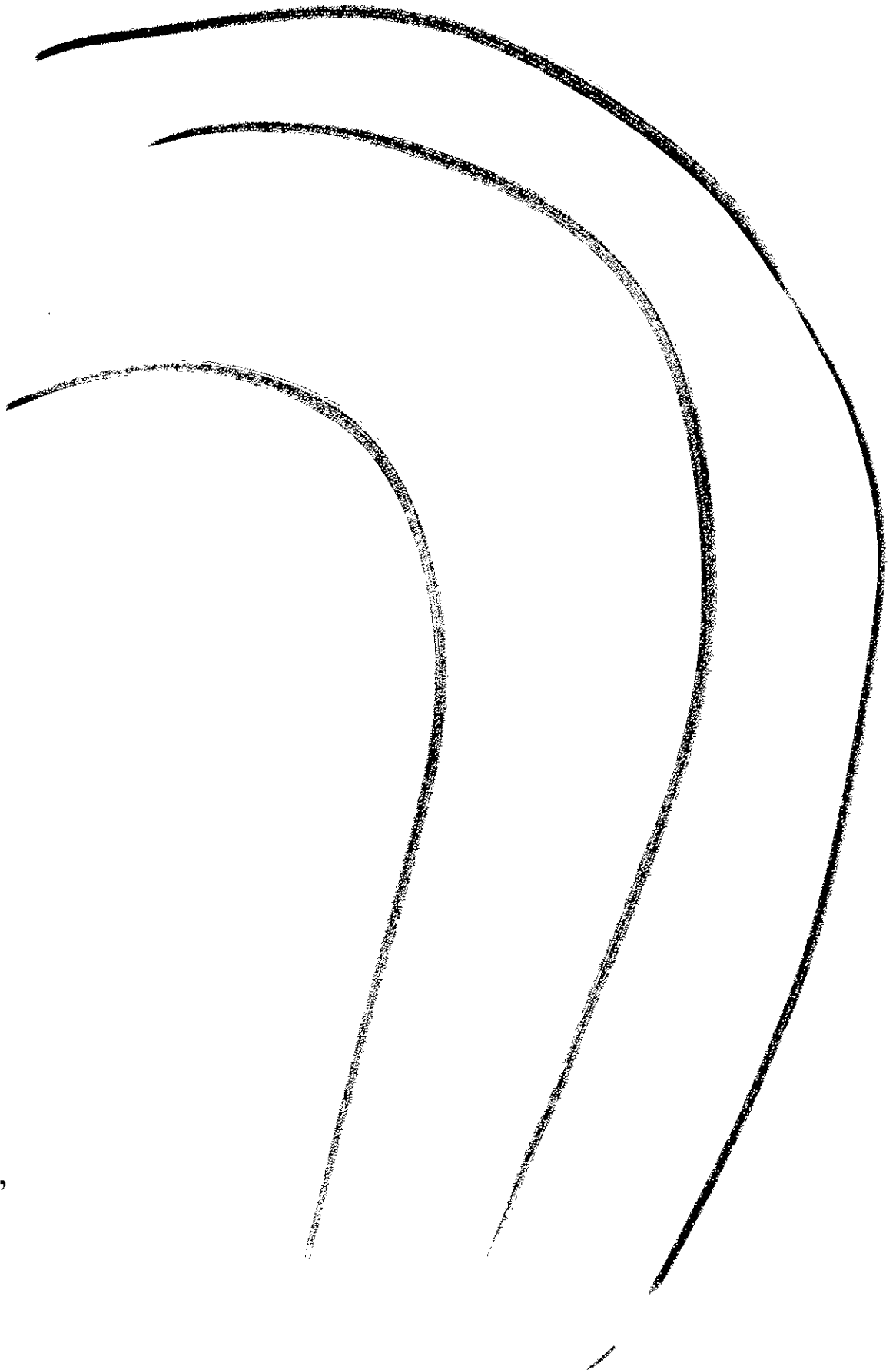
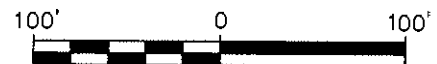
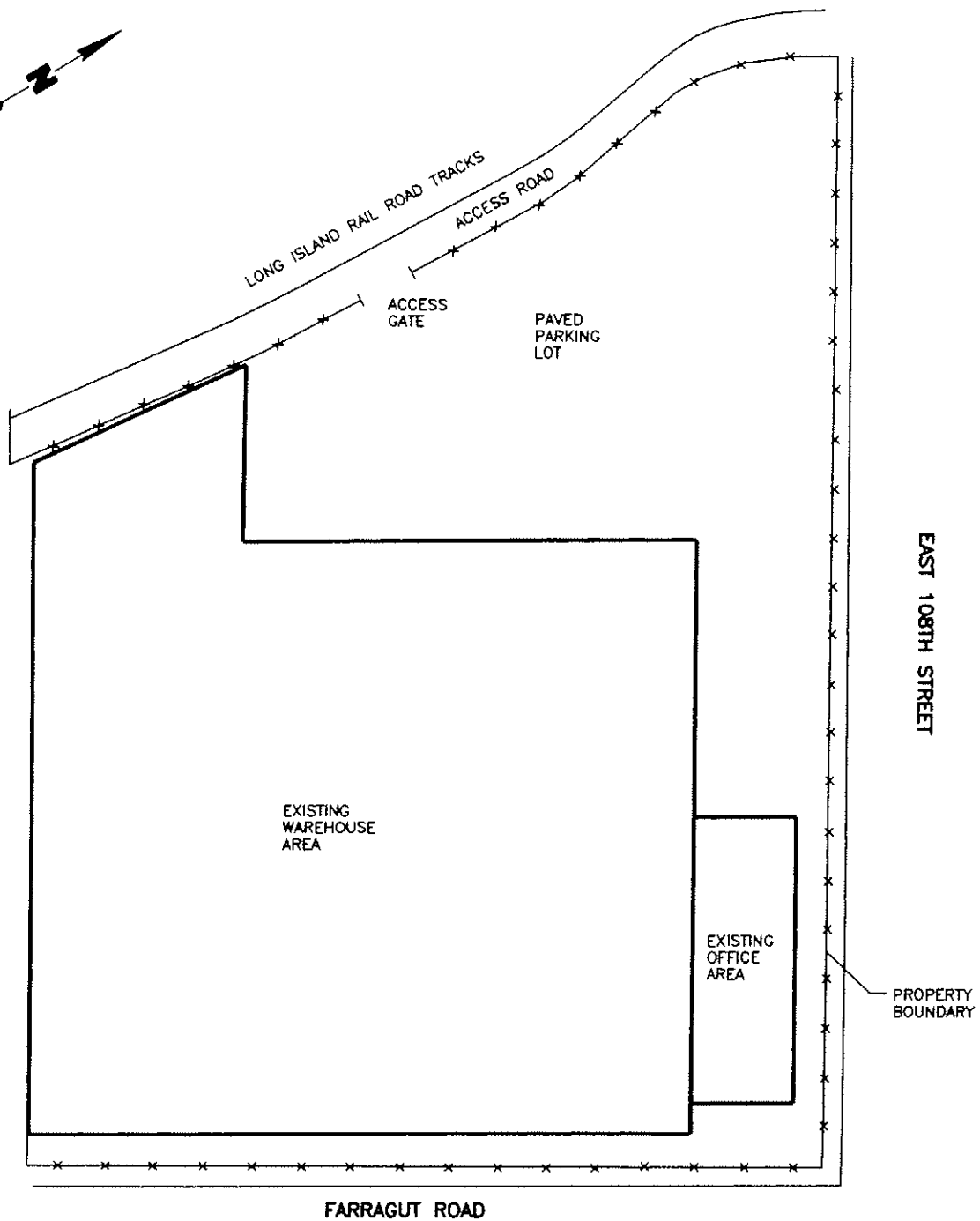
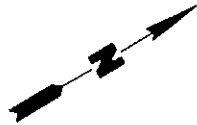


Exhibit "C"



Title:			
FEDERAL EXPRESS CORPORATION DISTRIBUTION CENTER BUILDING PLAN			
BROOKLYN, NEW YORK			
Prepared For: FEDERAL EXPRESS CORPORATION 3620 HACKS CROSS ROAD MEMPHIS, TENNESSE			
ROUX ROUX ASSOCIATES, INC. <i>Environmental Consulting & Management</i>	Compiled by: O.R.	Date: 10MAR06	FIGURE 1
	Prepared by: G.M.	Scale: AS SHOWN	
	Project Mgr: O.R.	Office: NY	
	File No: FX0119809	Project: 44402Y	

N:\PROJECTS\FX444\FX02\198\FXD219809.DWG