

March 1, 2012

Mr. Bryan Wong
New York State Department of Environmental Conservation
Division of Environmental Remediation, Region 2
47-40 21st Street or 41-40 21st Street
Long Island City, New York 11101-5407

**Re: Annual Site Management Report - 2011
132-20 Merrick Boulevard
Springfield Gardens, Queens, New York
NYSDEC VCP #V00304**

Dear Mr. Wong:

Please find enclosed the *Annual Site Management Report - 2011* for Voluntary Cleanup Agreement Site #V00304 located at 132-20 Merrick Boulevard in Springfield Gardens, Queens County, New York (the Site). The attached report discusses the on-going site management activities associated with Engineering and Institutional Controls employed at the Site.

Should you have any questions or comments regarding this report, please contact Heather Cloud at (800) 360-9405, extension 4324.

Sincerely,

Groundwater & Environmental Services, Inc.



Allison Mikhlin
Associate Environmental Scientist



Heather Cloud
Site Operations Manager

cc: Chris Doroski – NYSDOH
Brett Soloway – Home Depot
Clinton Cole – Hartman Simons
John Cournoyer – FC Springfield Associates, LLC
Mark Chertok – Sive, Paget & Riesel, P.C.

Annual Site Management Report - 2011

**132-20 Merrick Boulevard
Springfield Gardens, Queens, New York
NYSDEC VCP #V00304**

Prepared for:

HD Development of Maryland, Inc. & Home Depot U.S.A., Inc.
2455 Paces Ferry Road, N.W.
Atlanta, GA 30339

Prepared by:



Groundwater & Environmental Services, Inc.
89 Cabot Court, Suite A
Hauppauge, New York 11788

March 2012

ANNUAL SITE MANAGEMENT REPORT - 2011

132-20 Merrick
Springfield Gardens, Queens, New York
NYSDEC VCP #V00304

Prepared for:

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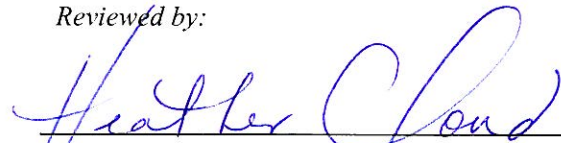
March 2012

Prepared by:



Allison Mikhlin
Associate Environmental Scientist

Reviewed by:



Heather Cloud
Site Operations Manager

Groundwater & Environmental Services, Inc.

89 Cabot Court, Suite A
Hauppauge, New York 11788
800-360-9405 Phone
631-582-4410 Fax

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CERTIFICATION

I, Michael Maegerle, P.G., certify that I am currently a NYS Qualified Environmental Professional (QEP) as defined in 6 NYCRR Part 375 and that this 2011 Site Management Report was prepared in accordance with all applicable statutes and regulations and in substantial conformance with the DER Technical Guidance for Site Investigation and Remediation (DER-10) and DER-Site Management Plan

Michael Maegerle  3/1/12
Name Signature Date



1.0 INTRODUCTION

In December of 1999, FC Springfield Associates, LLC entered into a Voluntary Cleanup Agreement (VCA) with the New York State Department of Environmental Conservation (NYSDEC) as the Volunteer for the property located at 132-20 Merrick Boulevard in Springfield Gardens, Queens County, New York (the Site) under Index# D2-0010-99-11 and Site #V00304. A Site Location Map is provided as **Figure 1**. Home Depot U.S.A., Inc. (Home Depot) contractually assumed FC Springfield Associates, LLC's rights and obligations under the VCA per an Assignment and Assumption Agreement. The NYSDEC was notified of the sale of the property to Home Depot and Home Depot's assumption of the responsibilities and rights to act for the Volunteer in implementation of the VCA.

Between 2000 and 2005, site remediation activities were conducted in accordance with the NYSDEC-approved October 1999 *Revised Remedial Work Plan* and documented in the September 2010, *Revised Draft Final Engineering Report* (FER). To manage residual contamination at the Site following the completion of the site remediation activities, Engineering Controls (ECs) and Institutional Controls (ICs) were established which include the following:

- Engineering Controls: Maintenance of an engineered composite cover consisting of asphalt-paved roads, concrete sidewalks and concrete building slabs to prevent human exposure to residual contaminated soil and groundwater; and
- Institutional Controls: Registration of a Deed Restriction at the Site to prevent future exposure to any contamination remaining at the Site.

In September of 2010, a Site Management Plan (SMP) was submitted to the NYSDEC and the New York State Department of Health (NYSDOH) outlining an implementation and management plan for the EC/ICs. To satisfy the requirements of the NYSDEC-approved SMP, Groundwater & Environmental Services, Inc. (GES), on behalf of Home Depot, has prepared this Annual Site Management Report to accomplish the following:

- Identify all required EC/ICs as required by the Remedial Work Plan and outlined in the SMP;
- Assess the continued effectiveness of the established EC/ICs for the Site;
- Certify the effectiveness of the established EC/ICs for the Site; and
- Provide an annual update on the assessment and certification of the established EC/ICs for the Site.



2.0 ENGINEERING CONTROLS

To prevent exposure to residual contaminated soil/fill, an engineered composite cover system was built on-site. This composite cover system is comprised of asphalt-covered roads, concrete-covered sidewalks and concrete building slabs (Site Cover). This Site Cover is a permanent control at the Site and inspections are required to assess and document the quality and integrity of this system. The required inspections include the following:

- Annual Site Cover visual inspection
- Annual Site-Wide inspection
- Non-routine Site Cover and Site-Wide inspections following a major storm event (defined as a storm event creating greater than 4.5 inches of rain within a 24-hour period).

2.1 Annual Site Cover Inspection

On December 13, 2011, GES, on behalf of Home Depot, conducted an annual Site Cover inspection to ensure that the ECs currently in place are in good condition. As outlined in the SMP, if minor cracking or damage is observed to the Site Cover over less than 25% of the paved areas, cracks and/or holes will be patched or repaired. If cracking and/or other damage is observed over greater than 25% of the paved areas, the area will be repaved with asphalt or concrete to restore its original thickness. During the Site Cover inspection, GES inspected the asphalt parking lot, the concrete-covered sidewalks and the concrete building slabs. A Site Map showing the Site layout is provided as **Figure 2**. The Site Cover Inspection Form is included in **Appendix A**.

Asphalt Parking Lot

The asphalt parking lot area covers approximately 219,750 ft² of area. Based upon the inspection, the asphalt was in good condition.

Minor cracking that was previously patched with tar (and discussed in the 2010 Site Management Report) was observed. No other cracks were observed. Photographs documenting the patched cracks in the asphalt are provided as Photos 10, 11 and 13 through 16 on the photo log provided in **Appendix B**.

In the northwestern portion of the asphalt parking lot, a 10-by-20 foot area contained minor damage due to buckling. Photographs documenting the buckling observed are provided as Photos 17 through 20 on the photo log.

Concrete-Covered Sidewalks

The concrete-covered sidewalks and soil covered landscape areas cover approximately 85,500 ft² of area. Both areas were observed to be in good condition. Photographs documenting the condition of the sidewalks and the landscaped areas are provided as Photos 5 through 8 and 12 on the photo log.

Concrete Building Slabs

The concrete building slabs cover approximately 144,375 ft² of area. Minor surficial cracking that was previously repaired with caulking was observed on the concrete floor in the interior of the building on the western side. Minor surficial cracks that had not been repaired at the time of the inspection were observed on the concrete floor in the interior of the building on the eastern side. Photographs documenting the concrete building slabs are provided as Photos 1 through 4 on the photo log.



2.2 Site-Wide Inspection

On December 13, 2011, in conjunction with the Site Cover inspection, GES, on behalf of Home Depot, conducted an annual Site-Wide inspection. The Site-Wide inspection documented that the site use restrictions as outlined below in Section 3.1.1 have not been deviated from. The Site-Wide Inspection Form is included in **Appendix C**.

2.3 Non-routine Inspections

Non-routine inspections are required following a major storm event, as defined as greater than 4.5 inches of rainfall in a 24 hour period.

On August 28, 2011, Hurricane Irene passed through the New York City area, and within a 24 hour period generated approximately 4.1 inches of rainfall. Although this did not meet the major storm event definition as outlined in the SMP, a non-routine inspection was conducted on August 29, 2011. During the non-routine visit, it was determined that the engineering controls currently in place were not compromised and continued to be protective of human health and the environment.

3.0 INSTITUTIONAL CONTROLS

3.1 Institutional Controls

Institutional Controls were put in place for the Site to: (1) implement, maintain and monitor the EC systems as described in Section 2.0; (2) prevent future exposure to residual contamination by controlling disturbances of the subsurface contamination; and (3) restrict the use of the Site to commercial uses only.

Institutional Controls for the Site include the following:

- A Deed Restriction;
- A requirement to operate, maintain and inspect ECs as specified in the SMP;
- Groundwater monitoring as defined in the SPM; and
- Periodic reports summarizing data and information pertinent to the site management and provide a written statement certifying that the controls are employed and unchanged.

3.1.1 Deed Restriction

On July 20, 2011, a Deed Restriction was recorded at The City Register of the City of New York. A copy of the Deed Restriction is included in **Appendix D**.

In accordance with the FER and the SMP, the Deed Restriction restricts the use of the Site for commercial use only, prohibits the use of the groundwater underlying the Site without treatment, ensures that a vapor barrier is installed and an air monitoring program is implemented should a new building be constructed, prohibits vegetable gardens and farming on the Site and ensures that future activities on the Site that will disturb residual contaminated material are prohibited unless they are conducted in accordance with the SMP. As observed during the Site-Wide inspection conducted in December of 2011 (Section 2.2), all requirements of the Deed Restriction remain in place and have not been deviated from.



3.1.2 EC Maintenance and Inspection

As outlined in Section 2.0, annual Site inspections are conducted to assess and document the quality and integrity of the ECs. Results of these inspections are summarized in Sections 2.1 and 2.2. During the site inspection, it was confirmed that no maintenance was performed on the Site Cover in 2011.

3.1.3 Groundwater Monitoring

AKRF conducted quarterly groundwater sampling activities in September of 2011 and submitted a *Quarterly Groundwater Monitoring Report* to the NYSDEC summarizing the September 2011 groundwater sampling event. Based upon the results of the laboratory analytical results, AKRF recommended termination of quarterly groundwater monitoring at the Site.

On February 17, 2012, the NYSDEC approved AKRF's request to discontinue quarterly groundwater monitoring at the Site. Therefore, GES, on behalf of Home Depot, requests approval to proceed with well decommissioning at the Site.

3.1.4 Reporting

In March of 2011, AKRF submitted a *2010 Site Management Report* to document the site management activities conducted in 2010. To document the 2011 on-going site management activities associated with the EC/ICs in accordance with the SMP, GES has prepared this Annual Site Management Report.

4.0 SUMMARY

This Annual Site Management Report has been prepared to document on-going site management activities associated with the EC/ICs and certify that these controls are in accordance with the SMP. The site management activities conducted during this reporting period (January 2011 through December 2011) includes the following:

- AKRF submitted a *2010 Site Management Report* in March of 2011 documenting the site management activities conducted in 2010.
- A Deed Restriction was recorded with The City Register of the City of New York City on July 20, 2011.
- Quarterly groundwater monitoring activities were conducted in September of 2011 and the results of the groundwater sampling activities were submitted to the NYSDEC in December of 2011. Based upon the results, AKRF recommended termination of quarterly groundwater monitoring and the NYSDEC approved the request on February 17, 2012.
- Site Cover and Site-Wide inspections were conducted on December 13, 2011. Based upon the visual observations, all surface areas were in good condition as defined in the SMP. Areas noted where minor repairs to surface cover is needed include surficial cracks in the concrete floor on the eastern side of the building and a 10-by-20 foot area of asphalt in the northwestern portion of the parking lot where buckling and cracking was observed.



Based upon the information provided herein, GES, on behalf of Home Depot, recommends/requests the following:

- NYSDEC approval to decommission all wells associated with the Site as the NYSDEC approved the discontinuation of groundwater monitoring and sampling at the Site.
- Home Depot will patch the minor cracks in the concrete floor of the Site building and the 10-by-20 foot area in the parking lot where the asphalt is buckling.

APPENDIX A

Site Cover Inspection Form

Site Cover Inspection Form
132-20 Merrick Boulevard, Springfield Gardens, NY
VCP Site No. V00304
Inspector: Allison Mikhlin

Date: 12/13/2011

1. Landscaped areas:

<u>Adequate soil cover present?</u>	Yes
<u>Signs of erosion?</u>	No
<u>Recommended corrective action:</u>	None

2. Outdoor paving/sidewalks:

<u>Note any signs of cracking or other damage:</u>	<ul style="list-style-type: none">• Patched cracks in the asphalt were observed.• Buckling of a 10 foot by 20 foot area of asphalt in the northern portion of the parking lot was observed.• Concrete sidewalks were in good condition throughout the property.
<u>Note any areas where greater than 25% of surface is cracked/damaged:</u>	Not Applicable
Recommended corrective action:	Patch/Repair the area of buckling observed in the northern portion of the parking lot. Continue with regular maintenance and tar patching in the parking lot.

3. Concrete Building Slab:

<u>Note any signs of cracking or other damage:</u>	<ul style="list-style-type: none">• Patched surficial cracking that was previously repaired with caulking was observed on the concrete floor in the interior of the building on the on the western side.• Minor surficial cracks that had not been repaired at the time of the inspection were observed on the concrete floor in the interior of the building on the eastern side.
<u>Note any areas where greater than 25% of surface is cracked/damaged:</u>	Not Applicable
Recommended corrective action:	Patch/Repair the minor surficial cracks on the concrete floor on the eastern side of the building.

Comments (attach photos/sketches to illustrate any damage noted):
Photos of the Site Cover condition are provided in Appendix B of the Annual Site Management Report - 2011

APPENDIX B

Photographs



Photo #1: A view of the concrete building slab and repaired crack on the western side of the building. View is to the south.

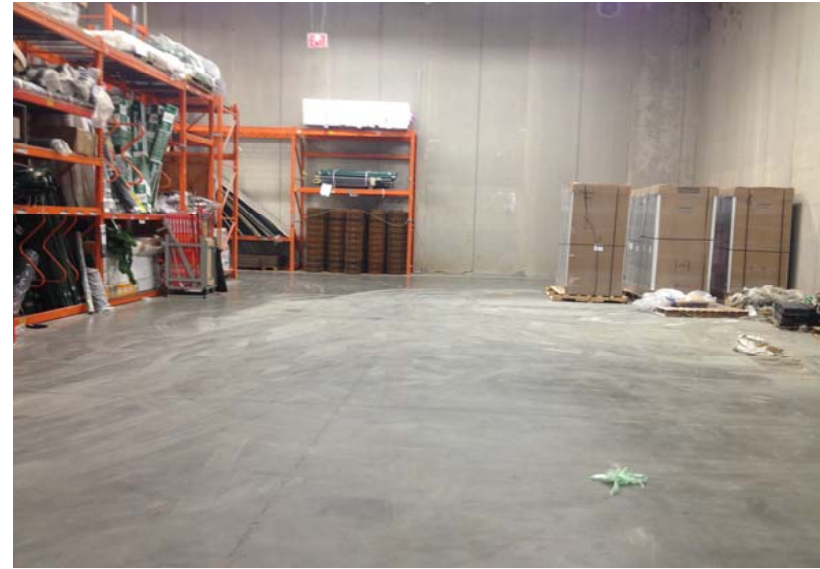


Photo #2: A view of the concrete building slab on the southern side of the building. View is to the south.



Photo #3: A view of the concrete building slab and crack on the eastern side of the building. View is to the north.



Photo #4: A view of the concrete building slab in the central portion of the building. View is to the north.



Photo #5: A view of the concrete sidewalk and landscape area on the western side of the building. View is to the south.



Photo #6: A view of the concrete sidewalk slab and monitoring well on the eastern side of the building. View is to the north.



Photo #7 A view of the concrete slab and drywell on the southern side of the building. View is to the east.

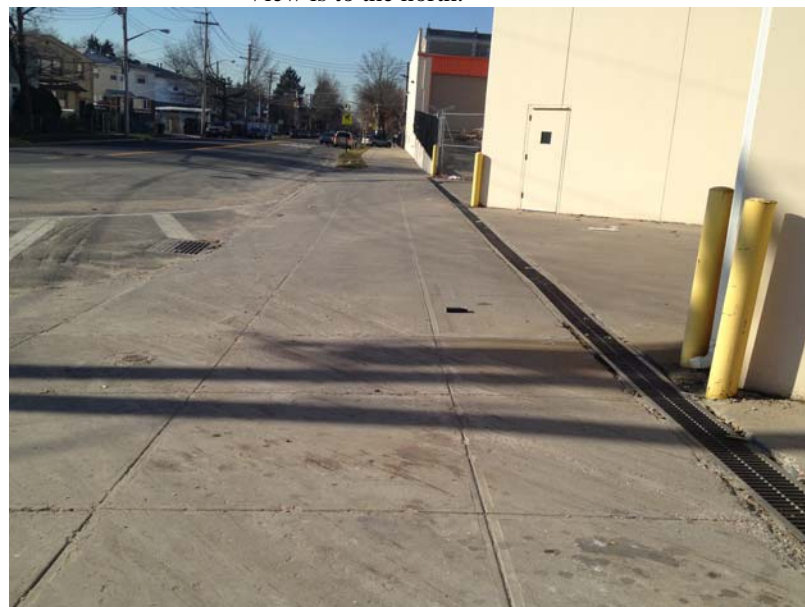


Photo #8: A view of the concrete sidewalk slab on the southern side of the building. View is to the west.



Photo #9: A view of the asphalt covered roadways on the northern side of the building. View is to the east.



Photo #10: A view of the asphalt covered parking lot and repaired cracks on the western side of the parking lot. View is to the north.



Photo #11: A view of the asphalt covered parking lot and repaired cracks on the western side of the parking lot. View is to the north.



Photo #12: A view of the landscape area on the western side of the parking lot. View is to the west.



Photo #13: A view of the asphalt covered parking lot and repaired cracks on the eastern side of the parking lot. View is to the east.



Photo #14: A view of the asphalt covered parking lot and repaired cracks on the eastern side of the parking lot. View is to the north.



Photo #15: A view of the asphalt covered parking lot and repaired cracks on the eastern side of the parking lot. View is to the north.



Photo #17: A view of asphalt buckling on the northern portion of the parking lot. View is to the south.



Photo #18: A view of asphalt buckling on the northern portion of the parking lot. View is to the east.

APPENDIX C

Site-Wide Inspection Form

Site-Wide Inspection Form
132-30 Merrick Boulevard, Springfield Gardens, NY VCP Site No.
V00304

Inspector: Allison Mikhlin
Date: 12/13/2011

1. Site Use Restrictions

- No groundwater withdrawal for potable/non-potable use? Groundwater beneath the Site is not being used for potable/non-potable purposes.
- Commercial use maintained? Yes. The Site is currently occupied by a Home Depot store and associated asphalt covered parking.

2. Site Cover

- Note the date that the annual site cover inspection was performed: 12-13-2011
- Repairs made as noted during inspection? Minor tar patches in the asphalt in the parking lot area. Minor caulking in the concrete floor in the interior of the store.

3. Soil Management

- Note the date(s) of any soil disturbance activities conducted during the past year: None
- Proper soil management procedures implemented (cite appropriate close-out reports)? Not applicable

4. Groundwater Monitoring

- Monitoring being conducted on a semi-annual basis (note the dates of sampling conducted)?

Groundwater sampling has been conducted on a quarterly basis since December of 2010. Groundwater samples were collected on: 12/10/2010, 3/4/2011, 6/20-21/2011 and 9/21-23/2011. The NYSDEC granted approval to discontinue monitoring on February 17, 2012.

- All on-site monitoring wells in working condition (note any repairs/replacement)?

All wells are in good condition and no repairs/replacements were made.

5. Recordkeeping

Check that the following records/reports are being maintained/completed (note report/log dates as appropriate):

- 1) Annual site cover inspection log.

Annual Site Cover inspections were conducted on 12/21/2010 and 12/13/2011. Logs were completed for both events.

- 2) Close-out report(s) for soil disturbance activities (including manifests for soil disposal).

Not Applicable.

3) Annual groundwater monitoring reports (including laboratory analytical data).

A *Quarterly Groundwater Monitoring Report* was submitted to the NYSDEC on December 9, 2011 by AKRF, Inc.

6. Comments

(Note any deficiencies and recommendations for corrective actions.)

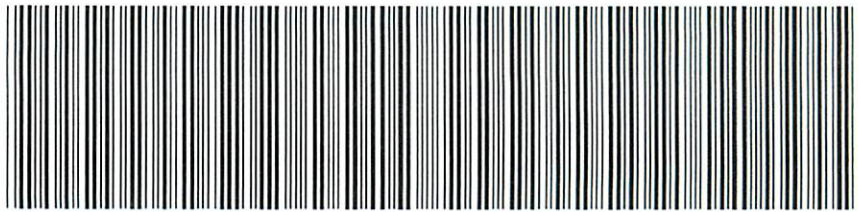
Home Depot will patch the minor cracks in the concrete floor of the Site building and the 10-by-20 foot area in the parking lot where the asphalt is buckling.

APPENDIX D

Deed Restriction

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

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RECORDING AND ENDORSEMENT COVER PAGE

PAGE 1 OF 11

Document ID: 2011071300637001

Document Date: 06-01-2011

Preparation Date: 07-13-2011

Document Type: SUNDRY AGREEMENT

Document Page Count: 10

PRESENTER:

CHICAGO TITLE INSURANCE CO. (PICK-UP)
711 THIRD AVE, 5TH FLOOR
3711-95096
NEW YORK, NY 10017
212-880-1200
sabrina.kessler@ctt.com

RETURN TO:

CHICAGO TITLE INSURANCE CO. (PICK-UP)
HARTMAN SIMONS & WOOD, LLP
6400 POWERS FERRY ROAD, SUITE 400
ATLANTA, GA 30339
ATTN: ALICE D. WILCOX

PROPERTY DATA

Borough	Block	Lot	Unit	Address
QUEENS	12999	44	Entire Lot	132-20 MERRICK BOULEVARD
Property Type: 1-3 FAMILY WITH STORE / OFFICE				

CROSS REFERENCE DATA

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

PARTIES

PARTY 1:

HD DEVELOPMENT OF MARYLAND, INC.
2455 PACES FERRY ROAD, N.W., BUILDING C-20
ALATANTA, GA 30339

FEES AND TAXES

Mortgage		Filing Fee:	
Mortgage Amount:	\$ 0.00		\$ 0.00
Taxable Mortgage Amount:	\$ 0.00	NYC Real Property Transfer Tax:	
Exemption:			\$ 0.00
TAXES: County (Basic):	\$ 0.00	NYS Real Estate Transfer Tax:	
City (Additional):	\$ 0.00		\$ 0.00
Spec (Additional):	\$ 0.00		
TASF:	\$ 0.00		
MTA:	\$ 0.00		
NYCTA:	\$ 0.00		
Additional MRT:	\$ 0.00		
TOTAL:	\$ 0.00		
Recording Fee:	\$ 87.00		
Affidavit Fee:	\$ 0.00		

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

Recorded/Filed 07-20-2011 15:10

City Register File No.(CRFN):

2011000256789

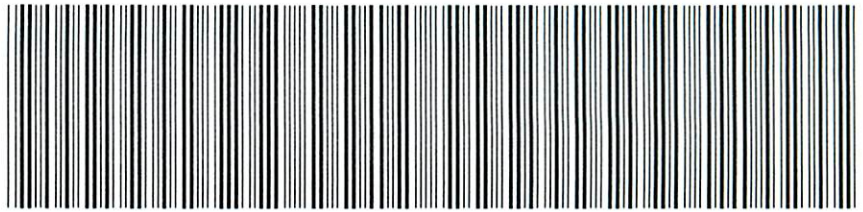


Gannette McMill

City Register Official Signature

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OFFICE OF THE CITY REGISTER**

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RECORDING AND ENDORSEMENT COVER PAGE

PAGE 1 OF 11

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PRESENTER:

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NEW YORK, NY 10017
212-880-1200
sabrina.kessler@ctt.com

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ATLANTA, GA 30339
ATTN: ALICE D. WILCOX

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Property Type: 1-3 FAMILY WITH STORE / OFFICE				

CROSS REFERENCE DATA

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

PARTIES

PARTY 1:

HD DEVELOPMENT OF MARYLAND, INC.
2455 PACES FERRY ROAD, N.W., BUILDING C-20
ALTANTA, GA 30339

FEES AND TAXES

Mortgage		Filing Fee:	
Mortgage Amount:	\$ 0.00		\$ 0.00
Taxable Mortgage Amount:	\$ 0.00	NYC Real Property Transfer Tax:	
Exemption:			\$ 0.00
TAXES: County (Basic):	\$ 0.00	NYS Real Estate Transfer Tax:	
City (Additional):	\$ 0.00		\$ 0.00
Spec (Additional):	\$ 0.00		
TASF:	\$ 0.00		
MTA:	\$ 0.00		
NYCTA:	\$ 0.00		
Additional MRT:	\$ 0.00		
TOTAL:	\$ 0.00		
Recording Fee:	\$ 87.00		
Affidavit Fee:	\$ 0.00		

3711 95096 (2)
Block 12999
Lot 44

DECLARATION of COVENANTS and RESTRICTIONS

THIS COVENANT is made the 1st day of June, 2011, by HD Development of Maryland, Inc. ("HD Development"), having an office for the transaction of business at 2455 Paces Ferry Road, N.W., Building C-20, Atlanta, Georgia 30339.

WHEREAS, HD Development owns that certain parcel of real property located at 132-20 Merrick Boulevard in the City of Springfield Gardens, County of Queens, State of New York being more particularly described in Appendix "A" attached to this declaration and made a part hereof, and hereinafter referred to as the "Property"; and

WHEREAS, the Property is the subject of that certain Voluntary Cleanup Agreement ("VCA") entered into in 1999 by FC Springfield Associates, LLC ("FCSA") as the Volunteer as part of the New York State Department of Environmental Conservation's (the "Department") Voluntary Cleanup Program ("VCP"); and

WHEREAS, FCSA conveyed the Property to Home Depot U.S.A., Inc. ("Home Depot") by Bargain and Sale Deed dated June 15, 2000 and recorded in the Office of the City Register of the City of New York on June 30, 2000 on Reel 5618 at Pages 2181-2185; and

WHEREAS, FCSA assigned, transferred and conveyed to Home Depot all of FCSA's right, title and interest in and to the VCA under that certain Assignment and Assumption Agreement by and between FCSA and Home Depot, dated June 15, 2000; and,

WHEREAS, the Property was conveyed by Home Depot to HD Development by Warranty Deed dated September 16, 2005 and recorded or filed in the Office of the City Register of the City of New York on September 11, 2006 as City Register File No. (CRFN) 2006000509539; and

WHEREAS, Home Depot leases the Property from HD Development and controls the day-to-day operations of the Property and remains responsible for all matters related to the VCA and VCP pursuant to the Assignment and Assumption Agreement; and

WHEREAS, the Department approved a remedy to eliminate or mitigate all significant threats to the environment presented by the contamination disposed at the Property and such remedy requires that the Property be subject to restrictive covenants.

NOW, THEREFORE, HD Development of Maryland, Inc. for itself and its successors and/or assigns, covenants that:

First, the Property subject to this Declaration of Covenants and Restrictions is as shown on a map attached to this declaration as Appendix "B" and made a part hereof.

Second, unless prior written 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, where contamination remains at the Property subject to the

provisions of the Site Management Plan ("SMP"), there shall be no construction, use or occupancy of the Property that results in the disturbance or excavation of the Property which threatens the integrity of the engineering controls or which results in unacceptable human exposure to contaminated soils.

Third, the owner of the Property shall not disturb, remove, or otherwise interfere with the installation, use, operation, and maintenance of engineering controls required for the remedy, which are described in the SMP, unless in each instance the owner first obtains a written waiver of such prohibition from the Department or Relevant Agency.

Fourth, the owner of the Property shall prohibit the Property from ever being used for purposes other than for commercial use without the express written waiver of such prohibition by the Relevant Agency.

Fifth, the owner of the Property shall prohibit the use of the groundwater underlying the Property without treatment rendering it safe for drinking water or industrial purposes, as appropriate, unless the user first obtains permission to do so from the Department or Relevant Agency.

Sixth, the owner of the Property shall provide a periodic certification, prepared and submitted by a professional engineer or environmental professional acceptable to the Department or Relevant Agency, which will certify that the institutional and engineering controls put in place are unchanged from the previous certification, comply with the SMP, and have not been impaired.

Seventh, the owner of the Property shall continue in full force and effect any institutional and engineering controls required for the approved remedy and maintain such controls, unless the owner first obtains permission to discontinue such controls from the Department or Relevant Agency, in compliance with the approved SMP, which is incorporated and made enforceable hereto, subject to modifications as approved by the Department or Relevant Agency.

Eighth, this Declaration is and shall be deemed a covenant that shall run with the land and shall be binding upon all future owners of the Property, and shall provide that the owner and its successors and assigns consent to enforcement by the Department or Relevant Agency of the prohibitions and restrictions that the Voluntary Cleanup Agreement requires to be recorded, and hereby covenant not to contest the authority of the Relevant Agency to seek enforcement.

Ninth, any deed of conveyance of the Property, or any portion thereof, shall recite, unless the Department or Relevant Agency has consented to the termination of such covenants and restrictions, that said conveyance is subject to this Declaration of Covenants and Restrictions.

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

HD Development of Maryland, Inc.

By: 

Name: Brett D. Soloway, Esq. *CTZ*

Title: Senior Counsel - Real Estate Law

STATE OF GEORGIA)

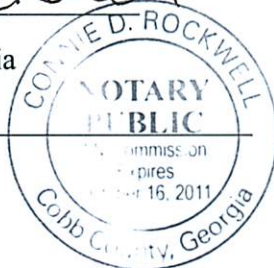
COUNTY OF COBB)

On the 1 day of June, in the year 2011, before me, the undersigned, personally appeared Brett D. Soloway, personally known to me to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Connie D. Rockwell

Notary Public State of Georgia

My Commission Expires: _____



SEAL

Appendix "A"

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

BEGINNING at the corner formed by the intersection of the southerly side of Merrick Boulevard, 100 feet wide, with the easterly side of Belknap Street, 60 feet wide;

RUNING THENCE easterly along the southerly side of Merrick Boulevard, along an arc of a circle bearing to the left having a radius of 717.793 feet, a distance of 428 feet (deed) (428.14 feet on survey) to a point;

THENCE still easterly along the southerly side of Merrick Boulevard, north 79 degrees 45 minutes 26 seconds east, 9.37 feet to the westerly line of land of the Long Island Railroad Co.;

THENCE southerly along the westerly line of land of the Long Island Railroad Co. and parallel with the easterly side of Belknap Street, 920.36 feet to a point;

THENCE south 78 degrees 37 minutes 00 seconds west, 190 feet to a point;

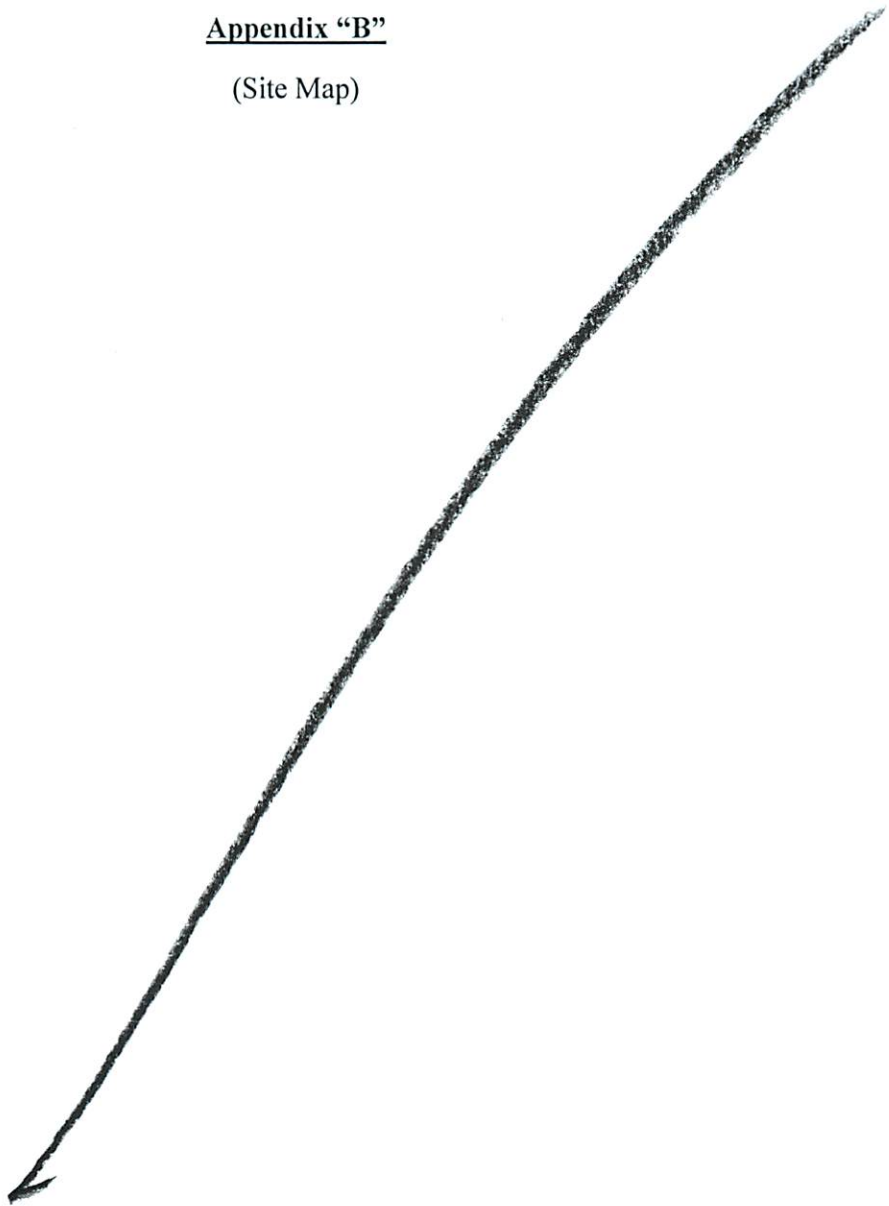
THENCE north 11 degrees 23 minutes 00 seconds west, parallel with the easterly side of Belknap Avenue, 100 feet;

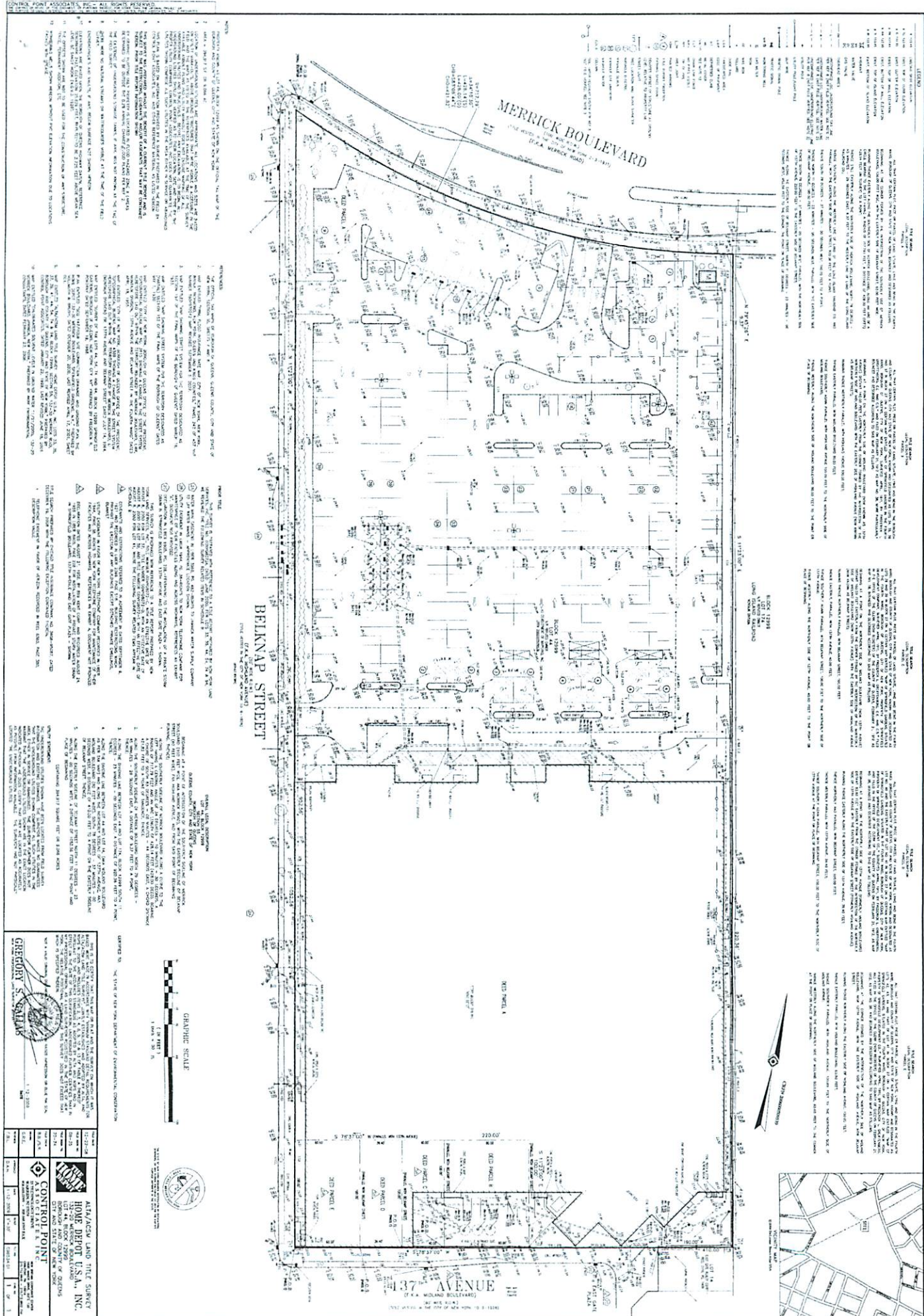
THENCE south 78 degrees 37 minutes 00 seconds west parallel with the northerly side of 137th Avenue, 220 feet to the easterly side of Belknap Street;

THENCE along the easterly side of Belknap Street, north 11 degrees 23 minutes 00 seconds west, 952.56 feet to the corner, the point or place of BEGINNING.

Appendix "B"

(Site Map)





INCUMBENCY/SECRETARIAL CERTIFICATE

The undersigned Assistant Secretary of Home Depot U.S.A., Inc., a Delaware corporation (the "Corporation"), hereby certifies:

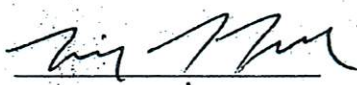

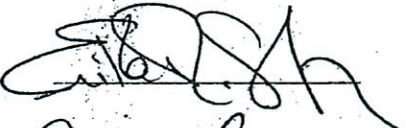
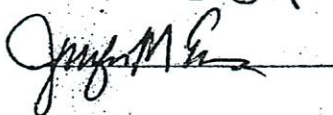
1. That the resolutions below constitute a true and correct copy of the resolutions contained in the Home Depot U.S.A., Inc., Unanimous Written Consent of the Board of Directors in Lieu of A Special Meeting, effective March 3, 2008, and that these resolutions have not been amended, annulled, rescinded or revoked and remain in full force and effect as of the date hereof.

RESOLVED, that the Executive Vice President, Secretary and General Counsel and the Vice President - Real Estate, each company employee with the title of Senior Counsel - Real Estate Law, Counsel - Real Estate Law, Senior Attorney - Real Estate Law, and Attorney - Real Estate Law, and each of them acting alone or together, or their duly delegated designee, are hereby authorized and directed, in the name of the Corporation, to take such steps as are necessary or desirable to effect the Corporation's policy of expansion and maintenance of its properties including, but not limited to, the acquisition, disposition or financing of real estate, the execution of Leases, Reciprocal Easement Agreement, Development Agreements, Easements, Servitudes, Right of Way, Assignments and any amendments or modifications to the foregoing, or any other instrument required to accomplish the aforesaid Corporate purposes; and

FURTHER RESOLVED, that the Executive Vice President, Secretary and General Counsel and the Vice President - Real Estate, each company employee with the title of Senior Counsel - Real Estate Law, Counsel - Real Estate Law, Senior Attorney - Real Estate Law, and Attorney - Real Estate Law, and each of them acting either alone or together, or their duly delegated designee, are hereby authorized and directed, in the name of the Corporation, to take, or cause to be taken, any and all actions and to execute and deliver any and all such other contracts, assignments, easements, conveyances, deeds, leases, subleases, agreements, certificates, instruments or any other documents as such individual or delegated designee may consider necessary or desirable to carry out the foregoing resolution and the transactions contemplated thereby; and

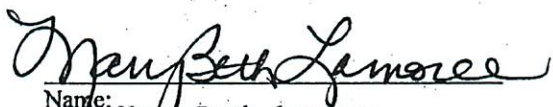
FURTHER RESOLVED, that these resolutions hereby revoke and supersede any other resolutions that heretofore granted the delegation of corporate authority to execute and deliver real estate documents by and on behalf of the Corporation.

2. The persons named below were on the date hereof the duly designated and qualified signatories of the Corporation, as set opposite his or her respective name, and that the signature appearing opposite his or her name, is the genuine facsimile signature of said signatory:

<u>Name</u>	<u>Title</u>	<u>Signature</u>
Michael C. LaFerle	Vice President Real Estate	
Brett D. Soloway	Senior Counsel Real Estate Law	
Erika M. Strawn	Senior Attorney Real Estate Law	
Jennifer M. Evans	Attorney Real Estate Law	

IN WITNESS WHEREOF, the undersigned has hereunto affixed the seal of the Corporation and set his/her signature, on this, the _____ day of _____, 2009.

[CORPORATE SEAL]



Name: Mary Beth Lamoree
Title: Assistant Secretary

9/25/2009

SECRETARIAL CERTIFICATE

I, Jonathan M. Gottsegen, Assistant Secretary of The Home Depot, Inc., a Delaware corporation (the "Company"), certify that the attached is a true, complete and correct copy of the Delegation of Authority dated May 22, 2008, and that such Delegation of Authority has not been modified, amended or rescinded and remains in full force and effect on the date hereof.

Dated: July 7, 2008

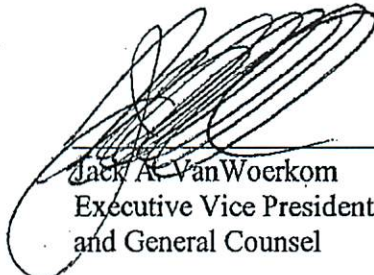

Jonathan M. Gottsegen
Assistant Secretary



DELEGATION OF AUTHORITY

I, Jack A. VanWoerkom, Executive Vice President, General Counsel and Corporate Secretary of The Home Depot, Inc. (the "Company"), do hereby designate the Vice President and Associate General Counsel-Real Estate Law, each Senior Counsel-Real Estate Law, each Counsel-Real Estate Law, each Senior Attorney-Real Estate Law and each Attorney-Real Estate Law of Home Depot U.S.A., Inc. as my designees and authorize each of them acting either alone or together to execute and deliver, or cause to be executed and delivered, any and all contracts, assignments, easements, conveyances, deeds, leases, subleases, agreements, certificates, instruments or any other documents on behalf of the Company, and each of its direct and indirect subsidiaries, related to real property owned or leased or to be acquired or leased by the Company or its direct and indirect subsidiaries (the "Documents") and to take, or cause to be taken, any and all actions in connection therewith as such individual or individuals may consider necessary or desirable, with such necessity or desirability being conclusively evidenced by the actions so taken. Further, I hereby ratify and approve all previous actions taken with respect to the execution and delivery of such Documents in the name of and on behalf of the Company and its direct and indirect subsidiaries.

IN WITNESS WHEREOF, I have hereunto set my hand this 22nd day of May, 2008.



Jack A. VanWoerkom
Executive Vice President, Secretary
and General Counsel



Enclosure 2
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Periodic Review Report Notice
Institutional and Engineering Controls Certification Form



Site No. V00304	Site Details	Box 1
Site Name Forest City Ratner, 132-20 Merrick Boule		
Site Address: 132-20 Merrick Boulevard Zip Code: 11434		
City/Town: Springfield Gardens		
County: Queens		
Site Acreage: 8.6		
Reporting Period: January 1, 2011 to March 31, 2012		
		YES NO
1. Is the information above correct?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
If NO, include handwritten above or on a separate sheet.		
2. Has some or all of the site property been sold, subdivided, merged, or undergone a tax map amendment during this Reporting Period?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Has there been any change of use at the site during this Reporting Period (see 6NYCRR 375-1.11(d))?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Have any federal, state, and/or local permits (e.g., building, discharge) been issued for or at the property during this Reporting Period?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
If you answered YES to questions 2 thru 4, include documentation or evidence that documentation has been previously submitted with this certification form.		
5. Is the site currently undergoing development?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Box 2
	YES NO
6. Is the current site use consistent with the use(s) listed below? Commercial and Industrial	<input checked="" type="checkbox"/> <input type="checkbox"/>
7. Are all ICs/ECs in place and functioning as designed?	<input checked="" type="checkbox"/> <input type="checkbox"/>

IF THE ANSWER TO EITHER QUESTION 6 OR 7 IS NO, sign and date below and
DO NOT COMPLETE THE REST OF THIS FORM. Otherwise continue.

A Corrective Measures Work Plan must be submitted along with this form to address these issues.

Signature of Owner, Remedial Party or Designated Representative

Date

SITE NO. V00304

Box 3

Description of Institutional Controls

Parcel

Owner

Institutional Control

12999-44

Home Depot Development of maryland

Ground Water Use Restriction

Landuse Restriction

Site Management Plan

Box 4

Description of Engineering Controls

Parcel

Engineering Control

12999-44

Cover System

Engineering Control Details for Site No. V00304

Engineering Control Details for Site No. V00304

Parcel: 12999-44

Engineering controls:

1. Composite Cover system

Exposure to residual contaminated soil/fill is prevented by an Engineered composite cover system built on-site. This composite cover system is comprised of asphalt-covered roads, concrete-covered sidewalks, and concrete building slabs. The composite cover system is a permanent control and the quality and integrity of this system will be inspected in accordance with the approved SMP. The soil management in the approved SMP outlines the procedures required in the event the composite cover system and underlying residual soil are disturbed.

2. Institutional controls

- compliance with the Deed restriction by the grantee and the grantee's successors and adherence of all elements of the SMP
- All Engineering controls must be operated and maintained as specified in the SMP
- All Engineering Controls on the controlled property must be inspected at a frequency and in a manner defined in the SMP.
- Groundwater monitoring must be performed as defined in the SMP
- Data and information pertinent to Site management for the Controlled property must be reported at the frequency and in a Manner defined in the SMP
- The controlled property may be used for commercial use only, provided the long-term Engineering and Institutional Controls included in the SMP are employed
- The controlled property may not be used for a higher level of use, such as residential use without an amendment or extinguishment of the Deed Restriction
- Use of groundwater underlying the controlled property is prohibited without treatment rendering it safe for the intended purpose
- if a newly constructed building or any substantial reconstruction or replacement of the building on the existing slab is constructed, a vapor barrier will be installed between the underlying soil and the lowest level floor or slab. In addition, an indoor air monitoring plan will be developed as part of any new building
- on-site environmental monitoring devices must be protected and replace as necessary to ensure proper functioning in the manner specified in the SMP
- Engineering controls may not be discontinued without an amendment of extinguishment of the Deed restriction
- Vegetable gardens and farming on the controlled property are prohibited
- All future activities on the controlled property that will disturb residual contaminated material are prohibited unless they are conducted in accordance with the soil management provision in the SMP
- Grantor agree to 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 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. This annual statement must be certified by an expert that the NYSDEC finds acceptable.

Periodic Review Report (PRR) Certification Statements

1. I certify by checking "YES" below that:

a) the Periodic Review report and all attachments were prepared under the direction of, and reviewed by, the party making the certification;

b) to the best of my 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

YES NO

☒☐

2. If this site has an IC/EC Plan (or equivalent as required in the Decision Document), for each Institutional or Engineering control listed in Boxes 3 and/or 4, I certify by checking "YES" below that all of the following statements are true:

(a) the Institutional Control and/or Engineering Control(s) employed at this site is unchanged since the date that the Control was put in-place, or was last approved by the Department;

(b) nothing has occurred that would impair the ability of such Control, to protect public health and the environment;

(c) access to the site will continue to be provided to the Department, to evaluate the remedy, including access to evaluate the continued maintenance of this Control;

(d) nothing has occurred that would constitute a violation or failure to comply with the Site Management Plan for this Control; and

(e) if a financial assurance mechanism is required by the oversight document for the site, the mechanism remains valid and sufficient for its intended purpose established in the document.

YES NO

☒☐

**IF THE ANSWER TO QUESTION 2 IS NO, sign and date below and
DO NOT COMPLETE THE REST OF THIS FORM. Otherwise continue.**

A Corrective Measures Work Plan must be submitted along with this form to address these issues.

Signature of Owner, Remedial Party or Designated Representative

Date

IC CERTIFICATIONS
SITE NO. V00304

Box 6

SITE OWNER OR DESIGNATED REPRESENTATIVE SIGNATURE

I certify that all information and statements in Boxes 1, 2, and 3 are true. I understand that a false statement made herein is punishable as a Class "A" misdemeanor, pursuant to Section 210.45 of the Penal Law.

I BRETT D. SOLOWAY at 2455 PACES FERRY RD., ATLANTA, GA
print name print business address

am certifying as OWNER (Owner or Remedial Party)

for the Site named in the Site Details Section of this form.

 BRETT D. SOLOWAY APR 03 2012
Senior Counsel Date
Signature of Owner, Remedial Party, or Designated Representative
Rendering Certification *CTC*

IC/EC CERTIFICATIONS

Box 7

Signature

I certify that all information in Boxes 4 and 5 are true. I understand that a false statement made herein is punishable as a Class "A" misdemeanor, pursuant to Section 210.45 of the Penal Law.

Michael Maegerle at 70 Son Barrett Rd
print name print business address
Patterson NY 12563

am certifying as a Owner for the
(Owner or Remedial Party)

Michael Maegerle
Signature of, for the Owner or Remedial Party,
Rendering Certification

Stamp
(Required for PE)

4/10/12
Date

SECRETARIAL CERTIFICATE

I, Jonathan M. Gottsegen, Assistant Secretary of The Home Depot, Inc., a Delaware corporation (the "Company"), certify that the attached is a true, complete and correct copy of the Delegation of Authority dated May 22, 2008, and that such Delegation of Authority has not been modified, amended or rescinded and remains in full force and effect on the date hereof.

Dated: July 7, 2008

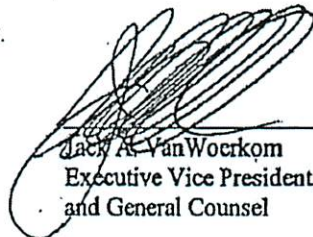

Jonathan M. Gottsegen
Assistant Secretary



DELEGATION OF AUTHORITY

I, Jack A. VanWoerkom, Executive Vice President, General Counsel and Corporate Secretary of The Home Depot, Inc. (the "Company"), do hereby designate the Vice President and Associate General Counsel-Real Estate Law, each Senior Counsel-Real Estate Law, each Counsel-Real Estate Law, each Senior Attorney-Real Estate Law and each Attorney-Real Estate Law of Home Depot U.S.A., Inc. as my designees and authorize each of them acting either alone or together to execute and deliver, or cause to be executed and delivered, any and all contracts, assignments, easements, conveyances, deeds, leases, subleases, agreements, certificates, instruments or any other documents on behalf of the Company, and each of its direct and indirect subsidiaries, related to real property owned or leased or to be acquired or leased by the Company or its direct and indirect subsidiaries (the "Documents") and to take, or cause to be taken, any and all actions in connection therewith as such individual or individuals may consider necessary or desirable, with such necessity or desirability being conclusively evidenced by the actions so taken. Further, I hereby ratify and approve all previous actions taken with respect to the execution and delivery of such Documents in the name of and on behalf of the Company and its direct and indirect subsidiaries.

IN WITNESS WHEREOF, I have hereunto set my hand this 22nd day of May, 2008.



Jack A. VanWoerkom
Executive Vice President, Secretary
and General Counsel

INCUMBENCY/SECRETARIAL CERTIFICATE

The undersigned Assistant Secretary of Home Depot U.S.A., Inc., a Delaware corporation (the "Corporation"), hereby certifies:

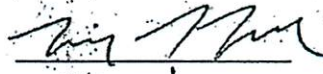

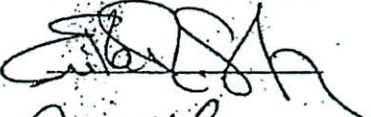
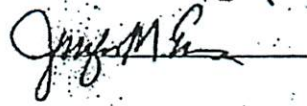
I. That the resolutions below constitute a true and correct copy of the resolutions contained in the Home Depot U.S.A., Inc., Unanimous Written Consent of the Board of Directors in Lieu of A Special Meeting, effective March 3, 2008, and that these resolutions have not been amended, annulled, rescinded or revoked and remain in full force and effect as of the date hereof.

RESOLVED, that the Executive Vice President, Secretary and General Counsel and the Vice President - Real Estate, each company employee with the title of Senior Counsel - Real Estate Law, Counsel - Real Estate Law, Senior Attorney - Real Estate Law, and Attorney - Real Estate Law, and each of them acting alone or together, or their duly delegated designee, are hereby authorized and directed, in the name of the Corporation, to take such steps as are necessary or desirable to effect the Corporation's policy of expansion and maintenance of its properties including, but not limited to, the acquisition, disposition or financing of real estate, the execution of Leases, Reciprocal Easement Agreement, Development Agreements, Easements, Servitudes, Right of Way, Assignments and any amendments or modifications to the foregoing, or any other instrument required to accomplish the aforesaid Corporate purposes; and

FURTHER RESOLVED, that the Executive Vice President, Secretary and General Counsel and the Vice President - Real Estate, each company employee with the title of Senior Counsel - Real Estate Law, Counsel - Real Estate Law, Senior Attorney - Real Estate Law, and Attorney - Real Estate Law, and each of them acting either alone or together, or their duly delegated designee, are hereby authorized and directed, in the name of the Corporation, to take, or cause to be taken, any and all actions and to execute and deliver any and all such other contracts, assignments, easements, conveyances, deeds, leases, subleases, agreements, certificates, instruments or any other documents as such individual or delegated designee may consider necessary or desirable to carry out the foregoing resolution and the transactions contemplated thereby; and

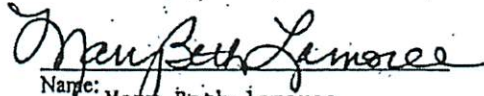
FURTHER RESOLVED, that these resolutions hereby revoke and supersede any other resolutions that heretofore granted the delegation of corporate authority to execute and deliver real estate documents by and on behalf of the Corporation.

2. The persons named below were on the date hereof the duly designated and qualified signatories of the Corporation, as set opposite his or her respective name, and that the signature appearing opposite his or her name, is the genuine facsimile signature of said signatory:

<u>Name</u>	<u>Title</u>	<u>Signature</u>
Michael C. LaFerle	Vice President Real Estate	
Brett D. Soloway	Senior Counsel Real Estate Law	
Erika M. Strawn	Senior Attorney Real Estate Law	
Jennifer M. Evans	Attorney Real Estate Law	

IN WITNESS WHEREOF, the undersigned has hereunto affixed the seal of the Corporation and set his/her signature, on this, the _____ day of _____, 2009.

[CORPORATE SEAL]


Name: Mary Beth Lamoree
Title: Assistant Secretary

9/25/2009

Enclosure 3
Periodic Review Report (PRR) General Guidance

- I. Executive Summary: (1/2-page or less)
 - A. Provide a brief summary of site, nature and extent of contamination, and remedial history.
 - B. Effectiveness of the Remedial Program - Provide overall conclusions regarding;
 1. progress made during the reporting period toward meeting the remedial objectives for the site
 2. the ultimate ability of the remedial program to achieve the remedial objectives for the site.
 - C. Compliance
 1. Identify any areas of non-compliance regarding the major elements of the Site Management Plan (SMP, i.e., the Institutional/Engineering Control (IC/EC) Plan, the Monitoring Plan, and the Operation & Maintenance (O&M) Plan).
 2. Propose steps to be taken and a schedule to correct any areas of non-compliance.
 - D. Recommendations
 1. recommend whether any changes to the SMP are needed
 2. recommend any changes to the frequency for submittal of PRRs (increase, decrease)
 3. recommend whether the requirements for discontinuing site management have been met.
- II. Site Overview (one page or less)
 - A. Describe the site location, boundaries (figure), significant features, surrounding area, and the nature and extent of contamination prior to site remediation.
 - B. Describe the chronology of the main features of the remedial program for the site, the components of the selected remedy, cleanup goals, site closure criteria, and any significant changes to the selected remedy that have been made since remedy selection.
- III. Evaluate Remedy Performance, Effectiveness, and Protectiveness

Using tables, graphs, charts and bulleted text to the extent practicable, describe the effectiveness of the remedy in achieving the remedial goals for the site. Base findings, recommendations, and conclusions on objective data. Evaluations and should be presented simply and concisely.
- IV. IC/EC Plan Compliance Report (if applicable)
 - A. IC/EC Requirements and Compliance
 1. Describe each control, its objective, and how performance of the control is evaluated.
 2. Summarize the status of each goal (whether it is fully in place and its effectiveness).
 3. Corrective Measures: describe steps proposed to address any deficiencies in ICECs.
 4. Conclusions and recommendations for changes.
 - B. IC/EC Certification
 1. The certification must be complete (even if there are IC/EC deficiencies), and certified by the appropriate party as set forth in a Department-approved certification form(s).
- V. Monitoring Plan Compliance Report (if applicable)
 - A. Components of the Monitoring Plan (tabular presentations preferred) - Describe the requirements of the monitoring plan by media (i.e., soil, groundwater, sediment, etc.) and by any remedial technologies being used at the site.
 - B. Summary of Monitoring Completed During Reporting Period - Describe the monitoring tasks actually completed during this PRR reporting period. Tables and/or figures should be used to show all data.
 - C. Comparisons with Remedial Objectives - Compare the results of all monitoring with the remedial objectives for the site. Include trend analyses where possible.
 - D. Monitoring Deficiencies - Describe any ways in which monitoring did not fully comply with the monitoring plan.
 - E. Conclusions and Recommendations for Changes - Provide overall conclusions regarding the monitoring completed and the resulting evaluations regarding remedial effectiveness.
- VI. Operation & Maintenance (O&M) Plan Compliance Report (if applicable)
 - A. Components of O&M Plan - Describe the requirements of the O&M plan including required activities, frequencies, recordkeeping, etc.
 - B. Summary of O&M Completed During Reporting Period - Describe the O&M tasks actually completed during this PRR reporting period.
 - C. Evaluation of Remedial Systems - Based upon the results of the O&M activities completed, evaluated the ability of each component of the remedy subject to O&M requirements to perform as

designed/expected.

- D. O&M Deficiencies - Identify any deficiencies in complying with the O&M plan during this PRR reporting period.
- E. Conclusions and Recommendations for Improvements - Provide an overall conclusion regarding O&M for the site and identify any suggested improvements requiring changes in the O&M Plan.

VII. Overall PRR Conclusions and Recommendations

- A. Compliance with SMP - For each component of the SMP (i.e., IC/EC, monitoring, O&M), summarize;
 - 1. whether all requirements of each plan were met during the reporting period
 - 2. any requirements not met
 - 3. proposed plans and a schedule for coming into full compliance.
- B. Performance and Effectiveness of the Remedy - Based upon your evaluation of the components of the SMP, form conclusions about the performance of each component and the ability of the remedy to achieve the remedial objectives for the site.
- C. Future PRR Submittals
 - 1. Recommend, with supporting justification, whether the frequency of the submittal of PRRs should be changed (either increased or decreased).
 - 2. If the requirements for site closure have been achieved, contact the Departments Project Manager for the site to determine what, if any, additional documentation is needed to support a decision to discontinue site management.

VIII. Additional Guidance

Additional guidance regarding the preparation and submittal of an acceptable PRR can be obtained from the Departments Project Manager for the site.