

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of the Implementation  
of a Remedial Response of  
Parcel "C" of the  
Hunts Point Food Distribution Center,

by

the City of New York,

**AMENDED  
AGREEMENT**

INDEX NUMBER:  
D2-0003-00-03

SITE NUMBER:  
V00412

**WHEREAS,**

1. A. The New York State Department of Environmental Conservation ("Department") is responsible for inactive hazardous waste disposal site remedial programs pursuant to Article 27, Title 13 of the Environmental Conservation Law ("ECL") and Part 375 of Title 6 of the Official Compilation of Codes, Rules and Regulations ("6 NYCRR") and may issue orders consistent with the authority granted to the Commissioner by such statute.

B. The Department is responsible for carrying out the policy of the State of New York to conserve, improve and protect its natural resources and environment and control water, land, and air pollution consistent with the authority granted to the Department and the Commissioner by Article 1, Title 3 of the ECL.

2. Volunteer, the City of New York ("City"), entered into an Agreement with the Department on December 11, 2000, by which the Department and the Volunteer, acting through the New York City Department of Small Business Services ("DBS") and the New York City Economic Development Corporation ("EDC"), agreed that the Volunteer would implement the Department-approved response plan relating to existing contamination at a City-owned property located in the Hunts Point section of the Bronx, New York hereinafter referred to as Parcel "C", and reimburse the State's administrative costs as provided in that Agreement; hereinafter, the "Voluntary Cleanup Agreement" or "VCA".

3. Exhibit "A" to the VCA described the boundaries of Parcel "C" and included two maps and a legal description of the property indicating that Parcel "C" was approximately 12.6 acres.

4. The Department and Volunteer agreed that Parcel "C" is actually approximately 9.3 acres in size and not 12.6 acres as the property was described in Exhibit "A" to the VCA. On August 3, 2010, the City provided the Department with updated maps and an updated legal description of Parcel "C" describing the size of the property as approximately 9.3 acres. A

copy of this letter is annexed as Attachment 1, and said letter also attached a Deed Restriction filed with the Office of the City Register on August 2, 2010. The Department has reviewed and accepted the updated maps and updated legal description of Parcel "C" contained in said letter.

5. Volunteer has completed the investigation and remedial work on Parcel "C", as Parcel "C" is described in the updated maps and legal description as described in Attachment 1.

6. Pursuant to Paragraph XII, I, 2 on page 17 of the VCA, on August 3, 2010 Volunteer sent the Department a request to amend the VCA to reflect the updated maps and legal description of Parcel "C".

8. Therefore, the Department and Volunteer, agree to amend the VCA (including Exhibit A), such that the VCA now refers to Parcel "C" as the 9.3 acre site described in Attachment 1 annexed hereto, rather than the 12.6 acre site originally referenced in Attachment A to the VCA.

**NOW, having considered this matter and being duly advised, IT IS ORDERED THAT:**

I. The VCA executed by the Department on December 11, 2000 is hereby amended, such that Parcel "C" noted in the VCA will now refer to the 9.3 acre site shown and described in Attachment 1 and Attachment 2 of this Order.

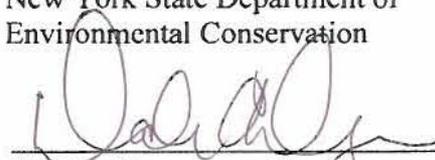
II. The effective date of this Amendment to the VCA is the 10<sup>th</sup> Day after it is signed by the Commissioner or the Commissioner's designee.

DATED:

JUL 19 2011

JOSEPH J. MARTENS  
Commissioner  
New York State Department of  
Environmental Conservation

By:

  
Dale A. Desnoyers, Director  
Division of Environmental Remediation



**ATTACHMENT "1": AUGUST 3, 2010 LETTER WITH ATTACHMENTS**



MICHAEL A. CARDOZO  
*Corporation Counsel*

THE CITY OF NEW YORK  
**LAW DEPARTMENT**

100 CHURCH STREET  
NEW YORK, N.Y. 10007-2601

phone: (212)788-1568  
fax: (212)788-1619  
email: [dgreenc@law.nyc.gov](mailto:dgreenc@law.nyc.gov)

August 3, 2010

Michael J. Lesser, Esq.  
New York State Department of Environmental Conservation  
Office of General Counsel, 14th Floor  
625 Broadway  
Albany, New York 12233-1500

**Re: Hunts Point Voluntary Cleanup Agreements**  
**Parcel "B" (Index No. D2-0004-01-03)**  
**Parcel "C" (Index No. D2-0003-00-03)**

Dear Mr. Lesser:

I write on behalf of the City of New York and the New York City Economic Development Corporation (collectively referred to in this letter as "the City") to notify the New York State Department of Environmental Conservation ("NYSDEC") that the City has filed deed restrictions for the above-referenced parcels as required by the respective voluntary cleanup agreements (VCAs). This letter also explains certain minor differences between the descriptions of the parcels contained in the VCAs and those contained in the deed restrictions. As explained below, the differences are non-substantive, and the modifications were made simply to ensure that the deed restrictions accurately encompass each of the parcels.

**Parcel "B"**

On May 9, 2008, the City recorded a deed restriction for Parcel "B", which is the location of the fish market. The deed restriction filed by the City made reference to tax lot Block 2780, Lot 73. In June 2010, NYSDEC informed the City's consultant that the VCA for Parcel B made reference to different tax lots, specifically: Block 2780, Lot 1; Block 2781, Lot 160 and 306; and Block 2778, Lot 100.

Based on the NYSDEC's concern, the City again reviewed the relevant tax map for this portion of Hunts Point. The tax map shows that the deed restriction was correct in

[www.nyc.gov](http://www.nyc.gov)

referencing Block 2780, Lot 73, as this tax lot encompasses the vast majority of Parcel "B". The VCA should not have made reference to Block 2780, Lot 1, as it does not exist, or Block 2778, Lot 100, as this tax lot encompasses Hunt's Point Parcel "A".

The City, however, has recorded an amended declaration (annexed as Attachment "1"), which adds references to Block 2781, Lots 160 and 306. Although the fish market structure is located on Block 2780, Lot 73, a very small portion of Parcel "B" is located on these two additional tax lots.

#### **Parcel "C"**

A copy of the deed restriction for Parcel "C" is annexed as Attachment "2". The description of Parcel "C" has been modified from the VCA as follows. First, the metes and bounds used in the deed restriction is based on a more recent survey of Parcel "C" which more accurately describes its boundaries. Second, at the time when Department and the City entered into the VCA, the only tax lot which encompassed Parcel "C" was Block 2781, Lot 500, which is referenced in the VCA. However, on November 11, 2009, a new tax lot (Block 2781, Lot 520) was added within the boundaries of Parcel "C." Both the original tax lot and the new tax lot are referenced in the deed restriction.

#### **Conclusion**

As the City has filed the necessary deed restrictions for Parcels "B" and "C", the City respectfully requests that the Department issue the "No Further Action" letters for these parcels. If you have any questions or require any additional information, please feel free to call or e-mail me at your convenience.

Sincerely yours,



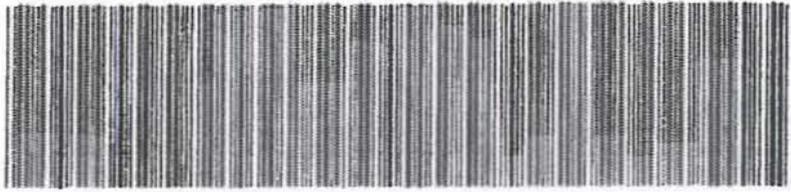
Daniel Greene  
Senior Corporation Counsel

cc: Kevin McCarty, HDR  
Kay Zias, NYCEDC

ATTACHMENT "1"

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

This page is part of the instrument. The City Register will rely on the information provided by you on this page for purposes of indexing this instrument. The information on this page will control for indexing purposes in the event of any conflict with the rest of the document.



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**RECORDING AND ENDORSEMENT COVER PAGE**

**PAGE 1 OF 10**

Document ID: 2010072700114001

Document Date: 07-23-2010

Preparation Date: 07-27-2010

Document Type: SUNDRY MISCELLANEOUS

Document Page Count: 8

**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
BRONX	2780	73	Partial Lot	1280 RYAWA AVENUE
Property Type: OTHER				
Borough	Block	Lot	Unit	Address
BRONX	2781	160	Partial Lot	N/A HUNTS POINT AVENUE
Property Type: OTHER				

x Additional Properties on Continuation Page

**CROSS REFERENCE DATA**

CRFN \_\_\_\_\_ or Document ID \_\_\_\_\_ or Year \_\_\_\_\_ Reel \_\_\_\_\_ Page \_\_\_\_\_ or File Number \_\_\_\_\_

**PARTIES**

**PARTY 1:**  
CITY OF NEW YORK  
110 WILLIAM STREET  
NEW YORK, NY 10038

**PARTY 2:**  
NEW YORK STATE DEPT OF ENVIRONMENTAL  
CONSERVATION  
625 BROADWAY  
ALBANY, NY 12233

**FEEES AND TAXES**

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



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

Recorded/Filed 08-02-2010 10:44

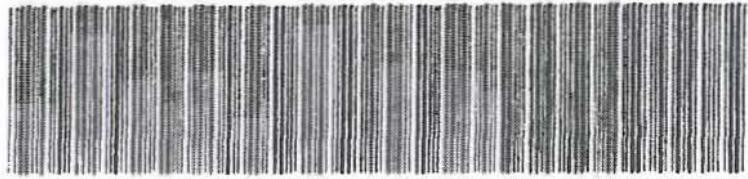
City Register File No. (CRFN):

2010000257007

*Carretto McMill*

City Register Official Signature

NYC DEPARTMENT OF FINANCE  
OFFICE OF THE CITY REGISTER



2010072700114001001CFC85

RECORDING AND ENDORSEMENT COVER PAGE (CONTINUATION) PAGE 2 OF 10

Document ID: 2010072700114001

Document Date: 07-23-2010

Preparation Date: 07-27-2010

Document Type: SUNDRY MISCELLANEOUS

PROPERTY DATA

Borough	Block	Lot	Unit	Address
BRONX	2781	306	Partial Lot	N/A HUNTS POINT AVENUE

Property Type: OTHER

## AMENDED DECLARATION OF COVENANTS AND RESTRICTIONS

**THIS COVENANT** is made the 23 day of July, 2010, by the City of New York ("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 Small Business Services, 110 William Street, New York, New York 10038, 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 is the owner of a parcel of real property which is participating in the Department's Voluntary Cleanup Program, and which is located on Block 2780, Lot 73 and Block 2781, Lots 160 and 306 on the City Tax Map for the County of the Bronx, and which is part of lands conveyed by Consolidated Edison Company of New York, Inc. to the City by deed June 6, 1968 and recorded in the Bronx County Clerk's Office on June 8, 1968 in Liber 366 of Conveyances at page 48.

**WHEREAS**, the Property is subject to a Voluntary Cleanup Agreement entitled "In the Matter of Implementation of a Remedial Response of Parcel "B" of the Hunts Point Food Distribution Center," Index No. D2-0004-01-03 (the "Agreement");

**WHEREAS**, this declaration amends and supersedes the declaration of covenants and restrictions recorded on May 9, 2008 by adding reference to Block 2781, Lots 160 and 306, which are within the boundaries of Parcel "B."

**NOW, THEREFORE** the City, for itself and its successor and/or assigns, covenants that:

First, the realty subject to this Declaration of Covenants and Restrictions is known as Site B (the "Site"), is shown on a map attached hereto as Schedule A and made part hereof, and consists of all that certain property and improvements thereon situated on Block 2780, Lot 73 and Block 2781, Lots 160 and 306 in the Borough of the Bronx, County of Bronx, City and State of New York, bounded and described in a metes and bounds description attached as Schedule B and made part of this covenant;

Second, this covenant prohibits the use of the Site for any purpose other than commercial uses consistent with local zoning, except the development of residential housing, community facilities, public recreating, day care/child care facilities or medical facilities, without the express written waiver of such prohibition 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 its citizens, hereinafter referred to as the "Relevant Agency";

Third, this covenant prohibits the use of groundwater underlying the Site without rendering it safe for drinking water or industrial purposes through treatment, unless the user obtains permission to do so from Department or the Relevant Agency;

Fourth, this covenant requires that the City, its successors and assigns continue in full force and effect all institutional and engineering controls required by the Final Engineering Report for Site B, Bronx, NY, and maintain such controls unless the owner first obtains permission to discontinue such controls from DEC or the Relevant Agency;

Fifth, this covenant provides that this declaration shall be binding on all future

owners of the Site, and shall provide that the owner, its successors and assigns, consent to the enforcement by the Department or the Relevant Agency, and hereby covenant not to contest the authority of the Department or the Relevant Agency to seek enforcement:

Sixth, this covenant requires that any deed of conveyance of the Site, or any portion thereof, shall recite, unless the Department or the 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



ANDREW SCHWARTZ  
Deputy Commissioner  
Department of Small Business Services

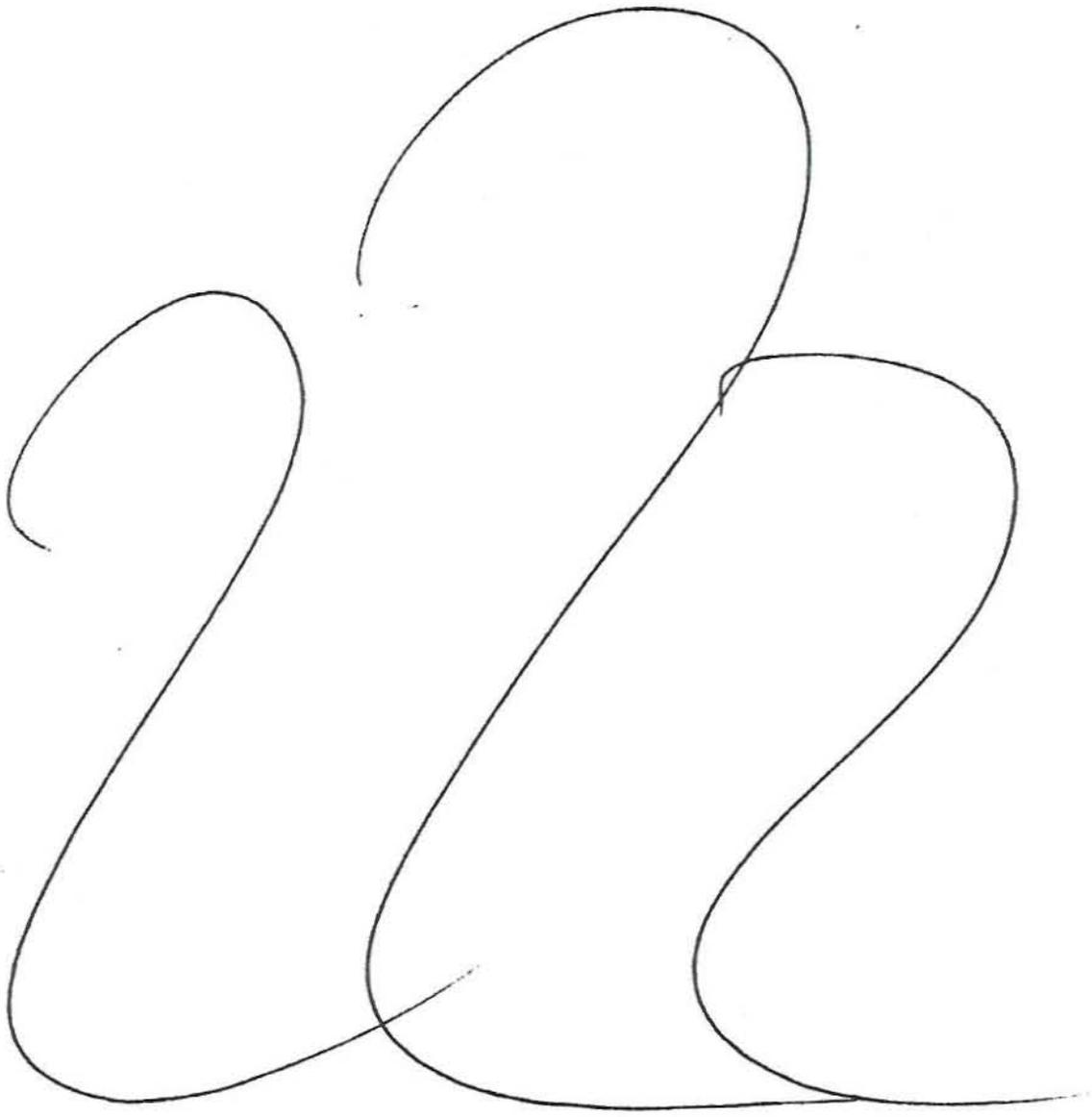
Sworn to before me this 13 day of July  
July 2010.

Raj Bela Tewel  
Notary Public

RAJBALA JASWAL  
Notary Public  
State of New York  
No. 01JAG152836  
Qualified in Queens County  
Commission Expires 9/28/2018

**SEAL**

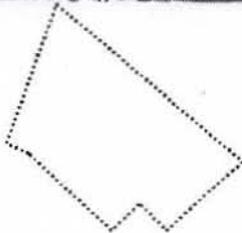
Approved as to Form:  
James M. Gault  
Acting Corporation Counsel

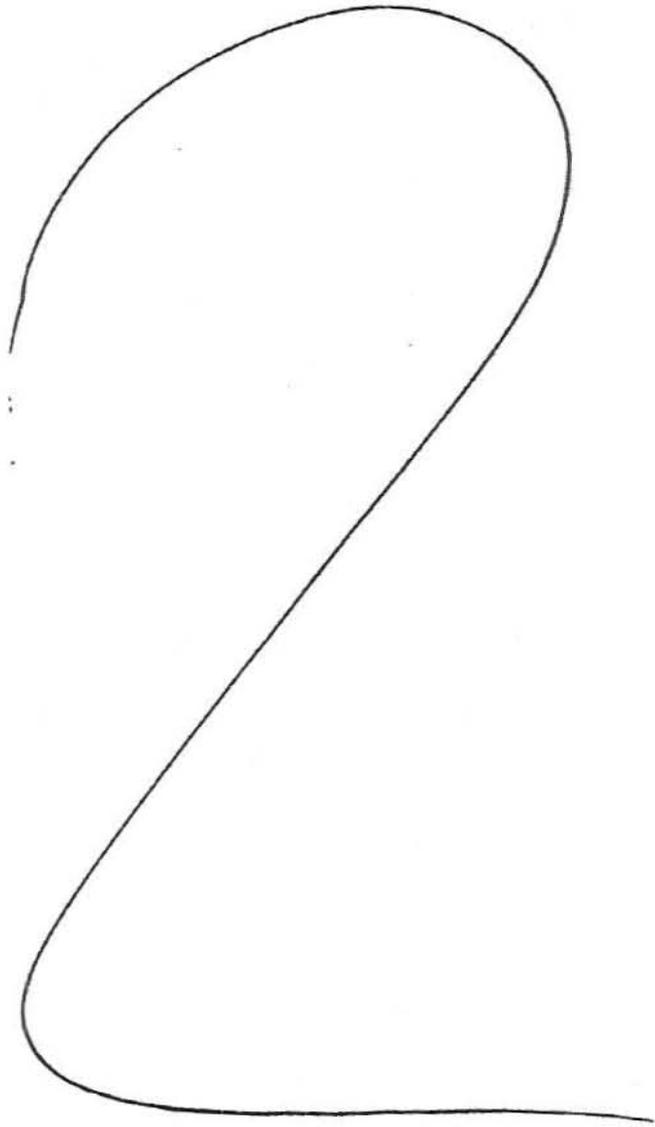


Schedule A



Food Distribution Center





Schedule B

—

Appendix "A"

Description of Parcel "B"

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

Commencing at the North Easterly corner of Halleck Street (100' wide) and Food Center Drive (100' wide); running thence Southerly along the prolongation of the Easterly line of Halleck Street, a distance of 100 feet to a point, on the Southerly line of Food Center Drive. Thence Easterly along the Southerly line of Food Center Drive, a distance of 13.05 feet to the point have a coordinate of (N-1827.165 E-20023.082) said point being the point and place of BEGINNING.

1. Along the south line of Food Center Drive, N 49° 41' 10" E 257.53' to a point; thence,
2. Along the same on a tangent concave curve to the right with a radius of 421.00' and a curve length 464.00' to a point; thence,
3. Along the same, S 67° 10' 00" E 665.12' to a point; thence,
4. Along the same on a tangent concave curve to the left with a radius of 473.05' and a curve length 411.36' to a point; thence,
5. S 33° 03' 20" E 119.03' to a point; thence,
6. Along a tangent concave curve to the left with a radius of 200.00' and a curve length 195.09' to a point; thence,
7. Leaving the above mentioned, S 88° 56' 40" E 27.99' to a point; thence,
8. S 25° 28' 35" E 616.27' to a point on the bulkhead line of East River; thence,
9. Along the above mentioned, S 69° 08' 20" W 421.10' to a point; thence,
10. Leaving the above mentioned, N 20° 51' 40" W 124.28' to a point; thence,
11. S 69° 47' 52" W 210.44' to a point; thence,
12. N 20° 46' 45" W 145.27' to a point; thence,

13. N 42° 57' 53" W 280.86' to a point; thence,
  14. N 69° 09' 03" W 542.25' to a point; thence.
  15. N 40° 42' 35" W 91.26' to a point; thence,
  16. N 44° 15' 36" E 12.27' to a point; thence,
  17. N 41° 19' 13" W 98.70' to a point; thence,
  18. N 67° 03' 57" W 70.30' to a point; thence,
  19. N 40° 47' 05" W 254.89' to a point; thence,
  20. Along the same on a tangent concave curve to the left side with a radius 555.38' and a curve length 164.68' to a point; thence,
  21. N 57° 46' 24" W 274.58' to a point; thence,
  22. N 40° 23' 19" W 115.83' to the point and place of beginning.
- Containing 29.04 acres, subject to easement.

On the 23<sup>rd</sup> day of July in the year 2010 before  
undersigned, personally appeared  
Andrew Schwartz, First Deputy Commissioner, SBS

personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual or the person upon behalf of which the individual(s) acted, executed the instrument.

RAJBALA JASWAL  
Notary Public  
State of New York  
No. 0152836  
Qualified in Queens County  
Commission Expires 9/25/2010

SEAL

*Joy Bela Lawel*

(Signature and office of individual taking acknowledgment)

**TO BE USED ONLY WHEN THE ACKNOWLEDGMENT IS MADE OUTSIDE NEW YORK STATE**

State (or District of Columbia, Territory, or Foreign Country) of \_\_\_\_\_ ss

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_ before me, the undersigned personally appeared \_\_\_\_\_

personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual made such appearance before the undersigned in the

\_\_\_\_\_ in \_\_\_\_\_  
(insert the City or other political subdivision) (and insert the State or Country, or other place the acknowledgment was taken)

\_\_\_\_\_  
(Signature and office of individual taking acknowledgment)

NYC DEPARTMENT OF FINANCE  
OFFICE OF THE CITY REGISTER



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SUPPORTING DOCUMENT COVER PAGE

PAGE 1 OF 1

Document ID: 2010072700114001

Document Date: 07-23-2010

Preparation Date: 07-27-2010

Document Type: SUNDRY MISCELLANEOUS

**SUPPORTING DOCUMENTS SUBMITTED:**

Page Count

RECORDING FEE EXEMPTION DOCUMENTATION

1



**THE CITY OF NEW YORK  
LAW DEPARTMENT**

100 CHURCH STREET  
NEW YORK, N.Y. 10007-2601

**MICHAEL A. CARDOZO**  
*Corporation Counsel*

phone: (212)788-1568  
fax: (212)788-1619  
email: [dgreene@law.nyc.gov](mailto:dgreene@law.nyc.gov)

July 27, 2010

Office of the City Registrar  
66 John Street  
New York, NY 10038

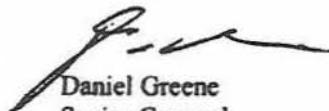
**Re: Recording Fee Exemption Letter  
Document ID: 2010072700096001**

Dear Sir or Madame:

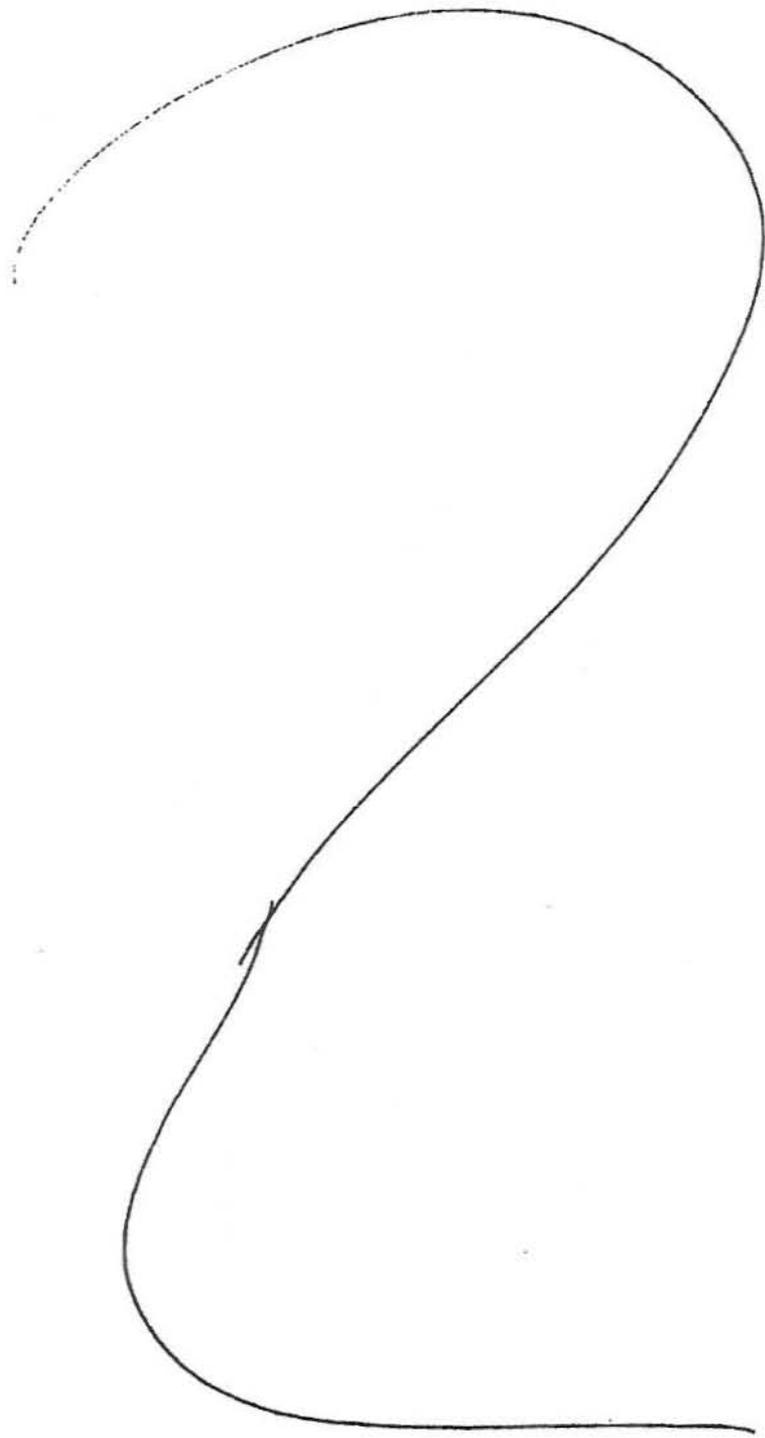
Due to the City of New York's interest in this matter, please waive any and all fees and/or taxes associated with this transaction. This waiver is pursuant to the provision of Section 7-102 of the New York City Administrative Code.

Thank you for your cooperation.

Sincerely yours,



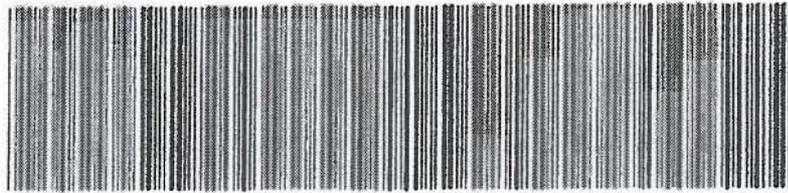
Daniel Greene  
Senior Counsel



ATTACHMENT "2"

**NYC DEPARTMENT OF FINANCE  
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**RECORDING AND ENDORSEMENT COVER PAGE**

**PAGE 1 OF 9**

Document ID: 2010072700096001 Document Date: 07-23-2010 Preparation Date: 07-27-2010  
Document Type: SUNDRY MISCELLANEOUS  
Document Page Count: 8

**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
BRONX	2781	500 Partial Lot	N/A HUNTS POINT AVENUE
Property Type: OTHER			
Borough	Block	Lot	Unit Address
BRONX	2781	520 Entire Lot	550 FOOD CENTER DRIVE
Property Type: OTHER			

**CROSS REFERENCE DATA**  
CRFN \_\_\_\_\_ or Document ID \_\_\_\_\_ or \_\_\_\_\_ Year \_\_\_\_\_ Reel \_\_\_\_\_ Page \_\_\_\_\_ or File Number \_\_\_\_\_

**PARTIES**

**PARTY 1:**  
CITY OF NEW YORK  
110 WILLIAM STREET  
NEW YORK, NY 10038

**PARTY 2:**  
NEW YORK STATE DEPT OF ENVIRONMENTAL  
CONSERVATION  
625 BROADWAY  
ALBANY, NY 12233

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



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OF THE CITY REGISTER OF THE  
CITY OF NEW YORK**

Recorded/Filed 08-02-2010 10:44  
City Register File No.(CRFN):  
2010000257009

*Annette McMill*

City Register Official Signature

## DECLARATION OF COVENANTS AND RESTRICTIONS

**THIS COVENANT** is made the 28 day of July, 2010, by the City of New York ("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 Small Business Services, 110 William Street, New York, New York 10038, 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 is the owner of a parcel of real property which is participating in the Department's Voluntary Cleanup Program, and which is located on Block 2781, Lots 500 and 520, which is part of lands conveyed by Consolidated Edison Company of New York, Inc. to the City by deeds dated (i) November 10, 1966 and recorded in the Bronx County Clerk's Office on November 18, 1966 in Liber 152 of Conveyances at page 1, (ii) June 6, 1968 and recorded in the Bronx County Clerk's Office on June 8, 1968 in Liber 366 of Conveyances at page 48, and (iii) March 29, 1972 and recorded in the Bronx County Clerk's Office on March 31, 1972 in Liber 179 of Conveyances at page 1126; and also part of lands conveyed by the Finance Administrator of the City of New York to the City by deed dated October 27, 1976 and recorded in the Bronx County Clerk's Office on November 5, 1976 on Liber 318 of Conveyances at page 1624.

**WHEREAS**, the Property is subject to a Voluntary Cleanup Agreement entitled "In the Matter of Implementation of a Remedial Response of Parcel "C" of the Hunts Point Food Distribution Center," Index No. D2-0003-00-03 (the "Agreement");

**NOW, THEREFORE** the City, for itself and its successor and/or assigns, covenants that:

First, the realty subject to this Declaration of Covenants and Restrictions is known as Parcel C (the "Site"), is shown on a map attached hereto as Schedule A and made part hereof, and consists of all that certain property and improvements thereon situated on Block 2781, Lots 500 and 520 in the Borough of the Bronx, County of Bronx, City and State of New York, bounded and described in a metes and bounds description attached as Schedule B and made part of this covenant;

Second, this covenant prohibits the use of the Site for any purpose other than commercial uses consistent with local zoning, except the development of residential housing, community facilities, public recreating, day care/child care facilities or medical facilities, without the express written waiver of such prohibition 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 its citizens, hereinafter referred to as the "Relevant Agency";

Third, this covenant prohibits the use of groundwater underlying the Site without rendering it safe for drinking water or industrial purposes through treatment, unless the user obtains permission to do so from Department or the Relevant Agency;

Fourth, this covenant requires that the City, its successors and assigns continue in full force and effect all institutional and engineering controls required by the Final Engineering Report and maintain such controls unless the owner first obtains permission to discontinue such controls from DEC or the Relevant Agency;

Fifth, this covenant provides that this declaration shall be binding on all future owners of the Site, and shall provide that the owner, its successors and assigns, consent to the enforcement by the Department or the Relevant Agency, and hereby covenant not to contest the authority of the Department or the Relevant Agency to seek enforcement;

Sixth, this covenant requires that any deed of conveyance of the Site, or any portion thereof, shall recite, unless the Department or the 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



ANDREW SCHWARTZ  
Deputy Commissioner  
Department of Small Business Services

Sworn to before me this 23 day of  
July, 2010.

Raj Bala Jansal  
Notary Public

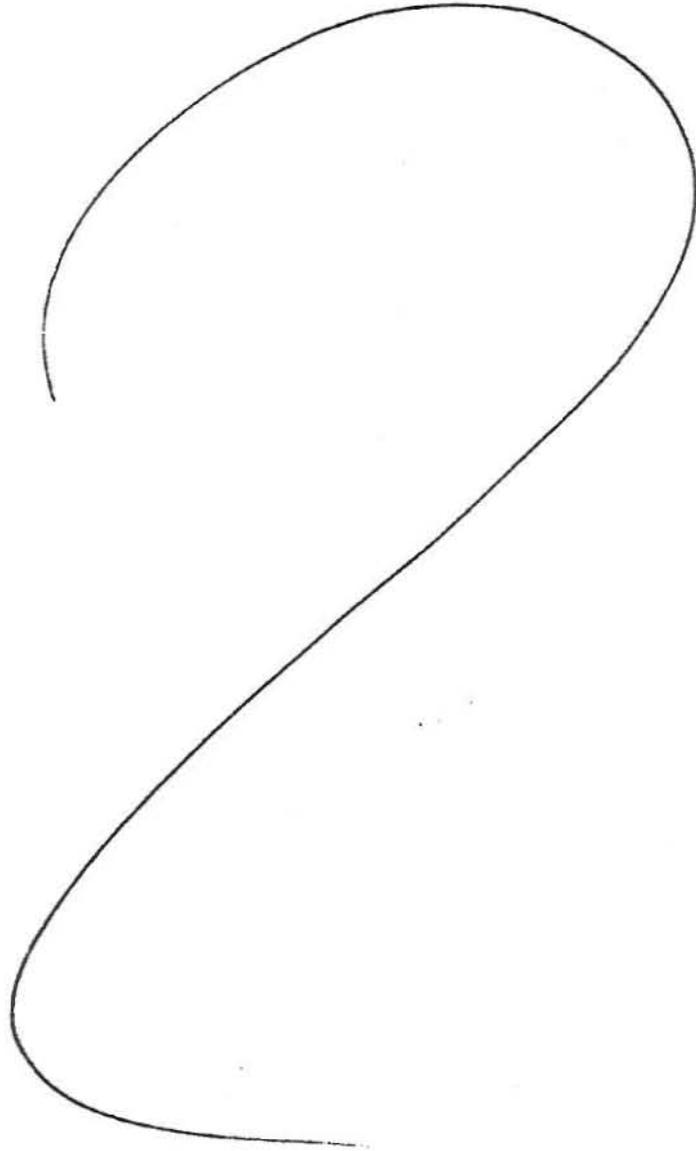
RAJBALA JANSAL  
Notary Public  
State of New York  
No. 01JA6182836  
Qualified in Queens County  
Commission Expires 9/28/2010

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Approved as to Form:  
James McQuinn  
Assistant Commissioner

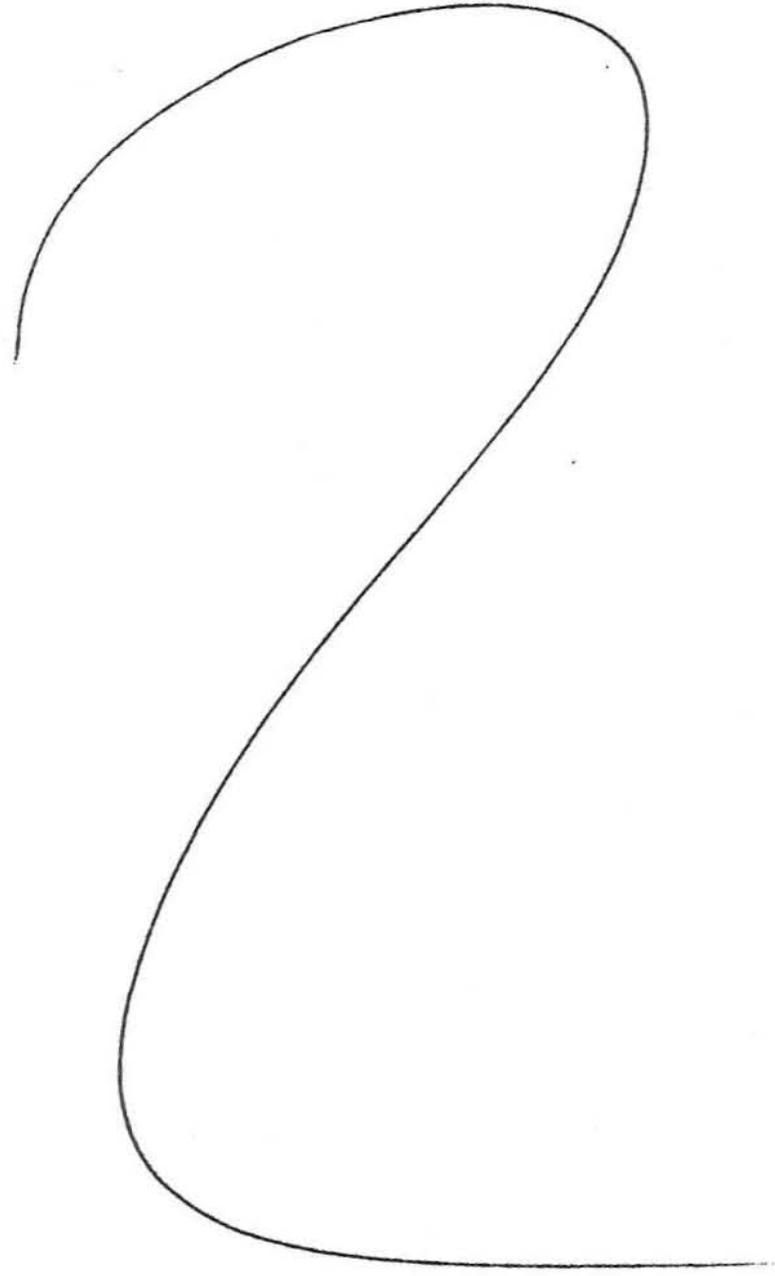
SEAL

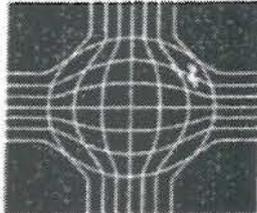
**Schedule A**





Schedule B





**MERCATOR**  
Land Surveyors, Inc.

Mercator#08J144  
EDC#28770003-04  
Site C -- VCA

## Metes & Bounds Description

May 18, 2010

Being a part of Lot 500 and all of Lot 520 Block 2781 situate, lying, and being in the Borough of the Bronx, City and State of New York, bounded and more particularly described as:

COMMENCING at the intersection of the northerly line of Food Center Drive with the easterly right-of-way line of Halleck Street (100 ft. wide), and running thence:

- A. Along the northerly right-of-way line of Food Center Drive, N 78°17'45" E, 1446.07' to a point, thence;
  - B. Continuing along the same, N 86°55'54" E, 180.95' to a point of curvature, thence;
  - C. Continuing along the same, with a curve to the left, having a radius of 264.00', an arc length of 39.78', a central angle of 8°38' 00" to a point of tangency, thence;
  - D. Continuing along the same, N 78°17'54" E, 128.52' to a point of curvature, thence;
  - E. Continuing along the same, with a curve to the right having a radius of 300.00', an arc length 409.57', and a central angle of 78°13'20" to a point of tangency, thence;
  - F. Continuing along the same, S 23°28'46" E, 1224.10' to a point of curvature, thence;
  - G. Continuing along the same, with a curve to the right having a radius of 410.00', an arc length of 148.90', and a central angle 20°48'28" to a point on the curve, thence;
  - H. Along a line, N 87°13'05" E, 37.84' to the point of TRUE beginning, thence;
1. Along said limits N 87° 13' 5" E, 665.00' to a point on the proposed limits of the Greenway, thence;
  2. Along said limits, S 16° 44' 13" W, 120.00' to a point, thence;
  3. Continuing along the same with a line being parallel to the bulkhead line, S 29°39' 55" W, 805.30' to a point, thence;
  4. Along the limit of an easement retained by ConEd, N 60°19'45" W, 518.17' to a point, thence;
  5. Along a line, N 29°39'55" E, 424.56' to a point of curvature, thence;
  6. Continuing along the same, with a curve to the left having a radius of 447.42', an arc length of 253.40', a central angle of 32°27'02" and a chord bearing, N

13°26'24" E 250.03' to a point on a curve and being the point of TRUE beginning.

Containing 406,520 Sq. Feet or 9.3323 Acres more or less

The premises is subject to easements and encumbrances as shown a survey by Mercator Land Surveying, dated March 1, 2010.



On the 23<sup>rd</sup> day of July in the year 2010 before  
undersigned, personally appeared  
Andrew Schwartz, First Deputy Commissioner SBS

personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual or the person upon behalf of which the individual(s) acted, executed the instrument.

RAJBALA JASWAL  
Notary Public  
State of New York  
No. 01JA6152836  
Qualified in Queens County  
Commission Expires 9/28/2010

Raj Bala Jaswal  
(signature and office of individual taking acknowledgment)

SEAL

TO BE USED ONLY WHEN THE ACKNOWLEDGMENT IS MADE OUTSIDE NEW YORK STATE

State (or District of Columbia, Territory, or Foreign Country) of

ss

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_  
personally appeared

before me, the undersigned

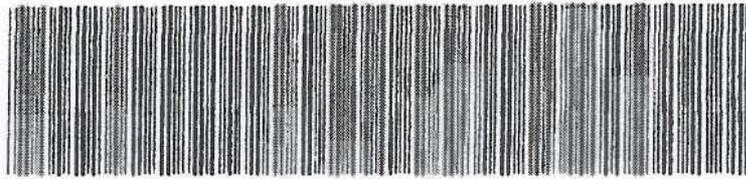
personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed it same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual had such appearance before the undersigned in the

\_\_\_\_\_ in \_\_\_\_\_  
(insert the City or other political subdivision)

(and insert the State or Country or other place the acknowledgment was taken)

\_\_\_\_\_  
(signature and office of individual taking acknowledgment)

NYC DEPARTMENT OF FINANCE  
OFFICE OF THE CITY REGISTER



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SUPPORTING DOCUMENT COVER PAGE

PAGE 1 OF 1

Document ID: 2010072700096001

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Preparation Date: 07-27-2010

Document Type: SUNDRY MISCELLANEOUS

**SUPPORTING DOCUMENTS SUBMITTED:**

RECORDING FEE EXEMPTION DOCUMENTATION

Page Count

1



THE CITY OF NEW YORK  
**LAW DEPARTMENT**

100 CHURCH STREET  
NEW YORK, N.Y. 10007-2601

MICHAEL A. CARDOZO  
*Corporation Counsel*

phone: (212)788-1568  
fax: (212)788-1619  
email: [dgreene@law.nyc.gov](mailto:dgreene@law.nyc.gov)

July 27, 2010

Office of the City Registrar  
66 John Street  
New York, NY 10038

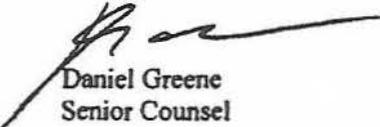
**Re: Recording Fee Exemption Letter**  
**Document ID: 2010072700114001**

Dear Sir or Madame:

Due to the City of New York's interest in this matter, please waive any and all fees and/or taxes associated with this transaction. This waiver is pursuant to the provision of Section 7-102 of the New York City Administrative Code.

Thank you for your cooperation.

Sincerely yours,

  
Daniel Greene  
Senior Counsel