

**REMEDIAL RESPONSE ACTION COOPERATION AGREEMENT
BY AND BETWEEN
THE CITY OF NEW YORK AND CONSOLIDATED EDISON
COMPANY OF NEW YORK, INC.**

This Remedial Response Action Cooperation Agreement (this "**Agreement**") is made this 28th day of July, 2008, by and between **THE CITY OF NEW YORK**, a New York municipal corporation having its principal office at City Hall in the Borough of Manhattan, City and State of New York (the "**City**"), acting by and through the New York City Department of Small Business Services; and **CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.** ("**Con Edison**" and together with the City, the "**Parties**"), a New York public utility corporation with its principal office at 4 Irving Place in the Borough of Manhattan, City and State of New York.

WITNESSETH:

WHEREAS, from 1923 until 1962, Con Edison owned and operated a manufactured gas plant ("**MGP**") in the Hunts Point section of the Borough of the Bronx, City and State of New York; and

WHEREAS, in 1968, after Con Edison demolished its Hunts Point MGP, the City purchased from Con Edison the grounds of that former plant, consisting of approximately 203.5 acres of unimproved lands (the "**Site**"); and

WHEREAS, the City's ability to redevelop certain sections of the Site has been adversely affected by the presence of hazardous substances and petroleum attributable to Con Edison's former MGP operations at the Site ("**MGP Contamination**"); and

WHEREAS, the City and Con Edison entered into a Memorandum of Agreement ("**MOA**"), dated as of March 31, 2000, under which Con Edison agreed to reimburse the City for up to \$14.247 million of the costs that the City and its agencies and departments incur in connection with the New York State Department of Environmental Conservation ("**DEC**") approved MGP Contamination investigation and remediation programs for the sections of the Site currently designated as Parcels A-OU1, A-OU2, B, C-OU1, C-OU2, E-OU1, E-OU2, and the Perimeter Road pursuant to the Voluntary Cleanup Agreements that the City and the DEC entered into with respect to those sections of the Site; and

WHEREAS, since entering into the MOA with Con Edison, the City has found MGP Contamination on the sections of the Site depicted as Parcels D, E-OU3, and F (each, as they may be renamed, redesignated or reconfigured, in each instance subject to the prior approval of Con Edison, a "**Covered Parcel**" and collectively the "**Covered Parcels**"), as further described on the map and metes and bounds legal descriptions annexed to this Agreement as Exhibit "A"; and

WHEREAS, the City has reported the MGP Contamination on the Covered Parcels to the DEC which has demanded that remedial response measures adequate to protect public health and the environment be undertaken and completed before those parcels are redeveloped; and

WHEREAS, by reason of the foregoing, the City and the DEC have entered into Voluntary Cleanup Agreements for the MGP Contamination on the Covered Parcels (hereinafter such Voluntary Cleanup Agreements are referred to collectively as “VCAs” and each individually as a “VCA”) under which: (1) the City will develop and implement DEC-approved investigation and remediation programs for the MGP Contamination on the Covered Parcels; (2) the City will reimburse the DEC for the costs it incurs administering the VCAs and monitoring the implementation of those programs; (3) the City will execute and record for the Covered Parcels DEC-approved Declarations of Covenants and Restrictions (“**Deed Restrictions**”) or environmental easements meeting the requirements of Article 71, Title 36 of the New York Environmental Conservation Law (“**Environmental Easements**”) to make the institutional controls that DEC requires for the Covered Parcels binding upon lessees and future owners of those parcels; (4) the City will perform, or will cause to be performed, such ongoing operations, monitoring and maintenance as may be required by the DEC following implementation of the DEC-approved remediation program; and (5) the DEC, in return for the City’s completion of all such actions to DEC’s satisfaction, will issue to the City “**No Further Action**” Letters in which, subject to certain specified exceptions, the DEC releases, covenants not to sue, and agrees not to commence any actions or proceedings against the City and its successors and assigns for further investigation activities and other remedial response measures for the MGP Contamination on the Covered Parcels; and

WHEREAS, the City has demanded that Con Edison reimburse the City for the costs and expenses the City and its agencies and departments incur pursuant to the VCAs developing and implementing DEC-approved investigation and remediation programs for the MGP Contamination on the Covered Parcels and has threatened to sue Con Edison under the Comprehensive Environmental Response, Compensation and Liability Act (“**CERCLA**”), Article 27 of the New York Environmental Conservation Law (“**ECL**”), Article 12 of the New York Navigation Law (“**NL**”) and other applicable law for such costs and expenses; and

WHEREAS, Con Edison contends that the City is also liable for some of such costs and expenses under CERCLA, the ECL and the NL, and has indicated that it will file a counterclaim seeking equitable apportionment and contribution from the City in any litigation that the City institutes against Con Edison for the recovery of such costs and expenses; and

WHEREAS, without admitting any fact, fault, or liability in connection with the Site and/or the Covered Parcels, the City and Con Edison wish to avoid litigation with respect to their claims and defenses with respect to such costs and expenses and, to allocate between themselves such costs and expenses, and to provide for an orderly and efficient process for the development, implementation, and funding of the DEC-approved investigation and remediation programs for the MGP Contamination on the Covered Parcels pursuant to the City’s VCAs with the DEC.

NOW THEREFORE, in consideration of the promises and respective representations and covenants contained herein, the City and Con Edison mutually agree as follows:

Article 1. Purpose of Agreement

It is the purpose of this Agreement that its terms control the manner and means by which the City and Con Edison will:

- (a) Conduct negotiations with the DEC concerning, and obtain DEC approval regarding, the scope and implementation schedule of the MGP Contamination investigation and remediation programs to be carried out pursuant to the VCAs;
- (b) Implement such DEC-approved investigation and remediation programs; and
- (c) Allocate between themselves the costs and expenses of such remedial response actions.

Article 2. Cooperation

2.1 The City and Con Edison shall cooperate fully with each other in all matters relating to implementation of this Agreement, make prompt payment of all amounts due under this Agreement, and confer with each other and allow and encourage their respective consultants to confer with one another for the purpose of facilitating the implementation of this Agreement, the development of DEC-approved investigation and remediation programs for the MGP Contamination on the Covered Parcels pursuant to the VCAs, and the implementation of such programs.

2.2 Within ten (10) days after the effective date of this Agreement, Con Edison shall provide the City with a copy of the following information to facilitate the development of the Remedial Investigation Work Plan(s) (“**RIWP**”) required for the MGP Contamination on the Covered Parcels under the VCAs: (1) the Hunts Point MGP Site History Report prepared for Con Edison by Parsons Engineering Science; (2) aerial photographs of the former Hunts Point MGP; (3) the historic Site composite overlay maps of Hunts Point MGP prepared for Con Edison by Parsons Engineering Science; and (4) Con Edison’s DEC-approved remedial investigation report for the Con Edison Gas Compressor Station Site located adjacent to the Parcel E-OU3 section of the Site. For the purpose of this Agreement, the term “effective date” shall mean the date on which this Agreement has received all necessary approvals for the Parties to enter into this Agreement and the Agreement has been fully executed by the Parties. Each of the Parties shall, upon its receipt of all approvals necessary for it to enter into this Agreement, confirm such receipt with the other Party, and once both Parties have so confirmed, the Parties will confirm in writing the date that constitutes the effective date.

2.3 Within ten (10) days after the effective date of this Agreement, the City shall provide Con Edison with a copy of the VCAs for the Covered Parcels and all work plans and reports previously approved by the DEC for the Covered Parcels.

Article 3. City’s Responsibilities/Undertakings

3.1 The City agrees that the following remedial response actions will be undertaken and completed on the City’s behalf by its agencies, departments, agents, representatives, licensees and/or contractors in accordance with the terms of this Agreement and the VCAs for

the MGP Contamination on the Covered Parcels (hereinafter the City agencies, departments, agents, representatives, licensees and/or contractors performing any actions required of the City under the VCAs or this Agreement are collectively referred to as "**City Representatives**"):

- (a) All investigation activities that the DEC lawfully requires for such MGP Contamination;
- (b) All remediation activities that the DEC lawfully requires for such MGP Contamination, including without limitation, the construction and installation of any required containment structures (such as underground vertical flow barriers and/or clean fill or paved caps), coal tar and/or petroleum recovery systems, groundwater monitoring and/or treatment systems, vapor barriers, and/or soil gas ventilation systems;
- (c) All activities specified in any Operations, Maintenance and Monitoring Plan(s) and/or Site Management Plan(s) that the DEC lawfully requires for such containment structures, systems, and vapor barriers; and
- (d) Payment of DEC oversight expenses as provided in the VCAs for the Covered Parcels.

3.2 The City agrees that it will execute and cause to be duly recorded in the manner specified by the DEC any Deed Restriction(s) that the DEC may lawfully require for the Covered Parcels under the VCAs.

3.3 The City agrees that it will execute and cause to be duly recorded such DEC-approved Environmental Easement(s) as the DEC may lawfully require for the Covered Parcels under the VCAs.

3.4 The City agrees that, to the extent required by the DEC under the VCAs, it will arrange for annual inspections of the Covered Parcels by a New York State-licensed professional engineer and for the preparation and filing with the DEC of annual certifications by such engineer that the institutional controls required by the DEC for the MGP Contamination on the Covered Parcels are in place, are being complied with, and remain effective to protect human health and the environment (hereinafter such annual inspections and certifications are referred to as "**Annual Certifications**").

3.5 The City agrees that it will comply with the requirements of the DEC-approved Deed Restriction(s) and/or Environmental Easement(s) for the Covered Parcels and that it will direct its agencies, departments, contractors, and lessees of the Covered Parcels to comply with those requirements.

3.6 The City, or New York City Economic Development Corporation ("**NYCEDC**") acting on its behalf, shall designate a managerial level staff person to serve as its primary representative to Con Edison with respect to the City's obligations under this Agreement ("**Primary City Representative**"). The Primary City Representative shall have a background in environmental remediation, including experience in investigating and remediating MGP Contamination and all applicable rules and regulations. Within thirty (30) days following

execution of this Agreement, the City will notify Con Edison in writing of the name and contact information of the Primary City Representative. Thereafter, the City shall notify Con Edison at least fifteen (15) days in advance of changing the Primary City Representative.

3.7 The City and/or one or more of the City Representatives shall be responsible for and shall pay all costs and expenses necessary to implement and/or comply with the requirements of the Deed Restriction(s), Environmental Easement(s), DEC-approved OM&M Plan(s) (as defined below), and/or SMP(s) (as defined below) for the Covered Parcels, including, but not limited to, monitoring well sampling, soil vapor testing, indoor air monitoring, reporting, and laboratory analysis until such activities are concluded and approved by DEC and DOH.

Article 4. Con Edison's Responsibilities/Undertakings

4.1 Whenever Con Edison's approval is required under the terms of this Agreement for a proposed budget, contract, work plan, or report, Con Edison shall, not later than fifteen (15) business days after its receipt from the City of the proposed contract, budget, work plan, or report (or within such other time as may be specifically provided in this Agreement), notify the City in writing of: (a) Con Edison's approval of the proposed budget, contract, work plan, and/or report; or (b) Con Edison's reasons for withholding its approval of the proposed budget, contract, work plan, and/or report.

4.2 Con Edison shall designate a managerial level staff person to serve as its primary representative to the City and/or City Representative with respect to Con Edison's obligations under this Agreement ("**Primary Con Edison Representative**"). The Primary Con Edison Representative shall have a background in environmental remediation, including experience in investigating and remediating MGP Contamination and all applicable rules and regulations. Within thirty (30) days following execution of this Agreement, Con Edison will notify the City in writing of the name and contact information of the Primary Con Edison Representative. Thereafter, the Con Edison shall notify the City at least fifteen (15) days in advance of changing the Primary Con Edison Representative.

4.3 Subject to and conditioned upon the City's compliance with the terms of this Agreement, Con Edison shall reimburse the City for the payments that the City and/or City Representatives have made to its or their contractors prior to the effective date of this Agreement for the investigation of the MGP Contamination on the Covered Parcels (hereinafter such costs and expenses are referred to as "**Past Costs**"). Con Edison's reimbursement payment to the City for Past Costs shall be made at the time and in the manner specified in Section 10.2 of this Agreement.

4.4 Subject to and conditioned upon the City's compliance with the terms of this Agreement, Con Edison shall be responsible for and shall reimburse the City, at the times and in the manner specified in Article 10 of this Agreement, for one hundred percent (100%) of the following costs and expenses the City and/or City Representatives incur(s) in connection with the investigation and remediation of the MGP Contamination on the Covered Parcels pursuant to this Agreement and the VCAs:

- (a) The reasonable and necessary costs and expenses of developing and implementing the DEC-approved investigation program(s) for the MGP Contamination on the Covered Parcels;
- (b) The reasonable and necessary costs and expenses described in Exhibit "B" to this Agreement; and
- (c) The costs and expenses of the DEC oversight accurately billed to the City pursuant to the VCAs.

Article 5. DEC Negotiations/Communications

5.1 Neither of the Parties shall without abiding by the procedures set forth in this Article: (1) submit to the DEC any proposed RIWP, Interim Remedial Measures Work Plan ("**IRM Work Plan**"), Remedial Alternatives Analysis Report ("**RAAR**"), Remedial Action Work Plan ("**RAWP**"), Operations, Maintenance and Monitoring Plan ("**OM&M Plan**"), or Site Management Plan ("**SMP**") for any Covered Parcel(s); and/or (2) request the DEC to approve any Material Modification (as defined below) to any proposed or DEC-approved final RIWP, IRM Work Plan, RAAR, RAWP, OM&M Plan, or SMP for any Covered Parcel(s).

5.2 For the purpose of this Agreement, the term "**Material Modification**" means any change in the scope or implementation schedule of a proposed or DEC-approved final RIWP, IRM Work Plan, RAWP, RAAR, OM&M Plan, and/or SMP. Material Modification does not include non-substantive, de minimus changes that do not affect the scope or implementation schedule of an IRM Work Plan, RAWP, RAAR, OM&M Plan, and/or SMP.

5.3 The City and/or City Representatives shall be the lead with respect to the submission of all proposed and final plans, reports, work plans, and other communications to the DEC concerning the investigation and remediation of the MGP Contamination on the Covered Parcels pursuant to the VCAs. The City and/or City Representatives shall also be the lead with respect to negotiations with the DEC pertaining to the required scope of such investigation and remediation programs. The City and/or City Representatives shall provide Con Edison with reasonable advance notice of such negotiations with the DEC and, if requested by Con Edison and acceptable to the DEC, permit Con Edison to attend and participate in them. If Con Edison is not present at such negotiation, the City shall, at Con Edison's request, provide Con Edison with a written summary of the negotiation.

5.4 The City and/or City Representatives shall be responsible for preparing all proposed and DEC-approved final RIWPs, IRM Work Plans, RAARs, RAWPs, OM&M Plans, SMPs, and reports required under VCAs for the MGP Contamination on the Covered Parcels (hereinafter such plans, reports, and work plans are referred to collectively as "**Submittals**" and each individually as a "**Submittal**"). During the development and preparation of any Submittal (other than periodic progress reports required under the VCAs), the City and/or City Representatives shall confer with Con Edison regarding the contents of the proposed Submittal and shall provide Con Edison with working drafts of the proposed Submittal. Before any Submittal is filed with the DEC, the City and/or City Representatives shall provide Con Edison with the final draft Submittal that it or they propose to file with the DEC. Con Edison shall have

fifteen (15) business days (or such lesser period of time as the Parties may agree to in writing) from its receipt of such final draft Submittal to provide written comments thereon to the City, including raising any objection as to the lawfulness of DEC requiring any activity described in such final draft Submittal. If Con Edison does not provide written comments to the City within such time, Con Edison shall be deemed to have approved the final draft Submittal (and accepted the lawfulness of DEC requiring any activity described therein) for the purpose of this Agreement.

5.5 If the City (and/or City Representatives) and Con Edison disagree on the contents of any final draft Submittal, they shall attempt, in good faith, to resolve such differences within ten (10) business days of Con Edison's submission of its written comments on the final draft Submittal to the City. In the event that resolution of such differences is not reached within this period, the City shall request a meeting with DEC, in which Con Edison may actively participate (unless DEC refuses to allow such participation), to seek guidance and assistance in resolving such differences. Except under exigent circumstances, the Primary City and Con Edison Representatives shall attend such meeting. Within five (5) business days following the meeting with the DEC, the City, as lead, shall revise the disputed final draft Submittal to incorporate into it the advice and guidance provided by the DEC during the meeting and thereafter file such amended final draft Submittal with the DEC. In the event that the DEC declines to participate in such a meeting, the City shall file its final draft Submittal with the DEC and Con Edison may submit to the DEC its comments on the City's final draft Submittal.

5.6 The City and/or City Representatives shall keep Con Edison informed of all material developments with respect to negotiations and other communications with the DEC pursuant to the VCAs and shall promptly provide Con Edison with a copy of all final work plans and reports approved by the DEC pursuant to the VCAs and the No Further Action Letters issued by the DEC for the Covered Parcels under the VCAs. Neither party to this Agreement shall be considered or deemed to be acting as the other party's agent or representative in any negotiations or discussions with the DEC.

Article 6. Redevelopment/Remediation Program for Covered Parcels

6.1 The City agrees that the Covered Parcels will be redeveloped for commercial and/or industrials uses consistent with the provisions of the New York City Zoning Code applicable to those parcels.

6.2 The City agrees that it and/or the City Representatives will use best efforts to formulate definitive redevelopment plans for the Covered Parcels prior to the time that the City is required under the VCAs to prepare draft RAAR(s) and/or RAWP(s) for the MGP Contamination on the Covered Parcels, so that if those Submittals are acceptable to the DEC, the City (and/or City Representatives) can implement the DEC-approved RAWP(s) in conjunction with the construction work associated with the redevelopment plan(s) for the Covered Parcels.

6.3 The City agrees that it and/or the City Representatives will make diligent efforts to negotiate with the DEC a remediation program for the MGP Contamination on each Covered Parcel that is cost effective and sufficient to satisfy a standard of cleanup deemed necessary by DEC and/or the New York State Department of Health ("DOH") for "commercial use" and/or

“industrial use” of the Covered Parcel, as those terms are defined in Title 6, Section 375-1.8(g) of the New York Codes, Rules and Regulations (**“NYCRR”**), subject to such engineering and institutional controls as the DEC may require for the MGP Contamination on the Covered Parcel, provided, however, that in the event that the definition of “commercial use” and/or “industrial use” specified in Title 6, Section 375-1.8(g) of the NYCRR is modified prior to the implementation of a remediation program for the MGP Contamination present on any Covered Parcel, the City shall negotiate with the DEC a remediation program that is sufficient to satisfy a standard of cleanup deemed necessary by the DEC and/or DOH for use of such Covered Parcel in a manner that is as closely equivalent as possible to the current definition of “commercial use” and/or “industrial use” in the NYCRR. Such engineering and institutional controls may include, but shall not be limited to:

- (a) Construction/installation of containment structures, such as subsurface vertical flow barriers around and/or clean fill or paved caps over portions of the Covered Parcel with residual MGP Contamination;
- (b) Construction/installation and operation of coal tar and/or petroleum recovery systems on the Covered Parcel;
- (c) Construction/installation and operation of groundwater monitoring and/or treatment systems on the Covered Parcel;
- (d) Installation of vapor barriers beneath the foundation slabs of any occupied structures constructed on the Covered Parcel or installation and operation of soil gas ventilation systems within such structures or beneath the foundation slabs of such structures;
- (e) Prohibition on the destruction, disturbance, or removal of any such required containment structures, coal tar and/or petroleum recovery systems, groundwater monitoring and/or treatment systems, vapor barriers, and/or soil gas ventilation systems;
- (f) Prohibition of the use of the groundwater beneath the Covered Parcel without DEC’s express written consent;
- (g) Prohibition on any “change in the use” of the Covered Parcel, as that term is defined in ECL Section 27-1425, without DEC’s express written consent;
- (h) Annual Certifications to the DEC for the Covered Parcel;
- (i) Implementation of a DEC-approved OM&M Plan or SMP containing, among other things, provisions for the operation and maintenance of the engineering controls and implementation of the institutional controls described above and a soil management plan for activities that disturb any subsurface soils on the Covered Parcel that contain residual MGP Contamination; and

- (j) Execution by the City and recording of DEC-approved Deed Restrictions or a DEC-approved Environmental Easement for the Covered Parcel making the institutional controls binding upon lessees and future owners of the parcel.

Article 7. Contractors

7.1 Within ninety (90) days following the execution of this Agreement, the City and Con Edison shall meet and confer to develop a mutually agreed upon list of qualified contractors ("**Qualified Contractor List**") who may be retained by the City to implement the DEC-approved RAWP(s) and/or IRM Work Plans for the MGP Contamination on the Covered Parcels. The Qualified Contractor List may be divided categorically based upon the type of work each contractor is qualified to perform. The Qualified Contractor List may be amended at any time upon written agreement of the Parties. Contractors retained to perform work expected to cost less than \$200,000 need not be included on the Qualified Contractor List.

7.2 The contractors retained by the City and/or its agencies and departments to perform a scope of work to implement the DEC-approved RAWP(s) for the MGP Contamination on the Covered Parcels and/or to implement for such contamination any DEC-approved IRM Work Plan, which scope of work is reasonably expected to cost more than \$200,000 (or such lesser amount as the City's own procurement rules may require) shall be procured on commercially reasonable terms and conditions and shall be selected on the basis of competitive and qualified bidding amongst the contractors on the Qualified Contractor List, or amongst the contractors on a relevant sub-category of the Qualified Contractor List. The City and/or its agencies and departments shall negotiate the contract(s) to be awarded for the implementation of any such DEC-approved RAWP(s) and/or DEC-approved IRM Work Plan.

7.3 Should circumstances arise whereby a certain scope of work is expected to cost more than \$200,000 and the City cannot practicably procure a contractor from the Qualified Contractor List for such work, the City shall instead procure a contractor on commercially reasonable terms and conditions. The City shall confer with Con Edison regarding the procurement of a non-listed contractor and, except in the case of an emergency, provide Con Edison with a copy of the contract to be awarded for its review and comment.

7.4 The City shall endeavor to require any contractor(s) retained by the City and/or the City's agencies and departments to implement or to supervise the implementation of any DEC-approved RAWP or DEC-approved IRM Work Plan for the MGP Contamination on the Covered Parcels (or any one or more of those parcels) to defend, indemnify, and hold the City and Con Edison harmless from and against any and all damages, losses, liability, suits, judgments, fines, civil penalties, and costs and expenses arising out of: (1) the contractor's or contractors' negligent acts in the performance of the work specified in such contract(s); (2) the contractor's or contractors' failure to implement the DEC-approved RAWP or IRM Work Plan in the manner specified in such work plan(s) and/or its or their contract(s) with the City or the City's agencies and departments; (3) the contractor's or contractors' failure to comply with the lawful directives of any representative of the DEC monitoring the implementation of the DEC-approved RAWP or IRM Work Plan; and (4) the contractor's or contractors' failure to implement the DEC-approved RAWP or IRM Work Plan in conformance with applicable environmental, health, and safety laws and regulations. However, if a contractor refuses to agree

to all or part of these terms and conditions, but the other terms and conditions in the contract to be awarded are commercially reasonable, the City and/or City Representatives may still award the contract to the contractor.

7.5 All MGP-contaminated soil, groundwater, and waste materials removed from the Covered Parcels (or any one or more of those parcels) during or as part of the implementation of any DEC-approved IRM Work Plan or DEC-approved RAWP shall be disposed of and/or treated in compliance with all applicable rules and regulations. The City and/or the City Representatives may elect to dispose of MGP-contaminated soil, groundwater, and waste materials at any of the commercial facilities identified in Exhibit "C" to this Agreement or such other facilities as may be acceptable to Con Edison for the disposal and/or treatment of MGP-contaminated soil, groundwater, and waste materials. Con Edison reserves the right to amend at any time on written notice to the City the list of acceptable commercial waste disposal/treatment facilities in Exhibit "C", provided, however, that a minimum of one (1) facility available for the receipt of the materials from the Covered Parcels must be included on Exhibit "C" at all times. Provided that the MGP-contaminated soil, groundwater and/or waste materials removed the Covered Parcel(s) are transported to and disposed and/or treated of at one or more of the facilities listed in Exhibit "C" to this Agreement (or another facility acceptable to Con Edison for such purpose as evidenced in writing by Con Edison), Con Edison agrees to and shall indemnify and hold harmless the City and its agencies, departments, officials, employees, agents, and representatives (other than contractors or subcontractors whose services include the transportation or off-site treatment, storage, or disposal any MGP-contaminated soil, groundwater and/or waste materials removed from one of more of the Covered Parcels) from and against any and all actions, suits, orders, claims, losses, damages, notices, investigations, actions, proceedings, or complaints (administrative, judicial or otherwise) brought, issued, asserted or alleged by any federal, state or local governmental authority, or any other third party for compliance, injunctive relief, damages, penalties, removal action, remedial response action, or other action pursuant to any applicable laws arising out of the disposal of such MGP-contaminated soil, groundwater, and/or waste materials removed from the Covered Parcel(s) (hereinafter such actions and other matters are referred to as "**Indemnified Matters**"). Notwithstanding anything to the contrary in this Section 7.5, unless waived by Con Edison, the City and/or its agencies and departments shall endeavor to include in all contracts relating to the transportation or off-site treatment, storage or disposal of MGP-contaminated soil, groundwater and/or waste materials removed from the Covered Parcels a requirement that the contractors or subcontractors providing such services defend, indemnify, and hold harmless the City and its agencies, departments, officials, employees, agents, and representatives, and other contractors and subcontractors from Indemnified Matters, and Con Edison's obligations under this Section 7.5 shall be deemed secondary to those of any contractors and subcontractors providing services under contracts including any such requirement.

Article 8. Implementation of DEC-Approved Work Plans

8.1 The City and/or City Representatives shall notify Con Edison at least seven (7) days before commencement of the implementation of any DEC-approved RIWP, IRM Work Plan, or RAWP for a Covered Parcel and shall keep Con Edison informed of all material developments with respect to the implementation of such work plan. The City and/or the City

Representatives shall promptly provide Con Edison with copies of all progress reports required by the DEC for the implementation of the work plan.

8.2 During the implementation of any DEC-approved RIWP or RAWP for a Covered Parcel, Con Edison and its authorized representatives shall have the right to: (1) enter upon the Covered Parcel to observe the implementation of the work plan; (2) confer with the contractors performing or supervising the implementation of the work plan; and (3) confer with the DEC representative monitoring the implementation of the work plan. Con Edison shall provide the City with at least one (1) business day's prior notice of its intent to exercise the foregoing rights with respect to a Covered Parcel and the City and/or City Representatives shall be entitled to participate in any such conference with any contractor or DEC representative. If the City or one of the City Representatives is not present at such conference, Con Edison shall, at the City's request, provide the City with a written summary of the conference. While present on the Covered Parcel during the implementation of the work plan, Con Edison and its authorized representatives shall comply with all applicable health and safety requirements of the work plan and with the directives of the contractors carrying out the work plan and the DEC representative monitoring the implementation of the work plan. Con Edison agrees that all Con Edison employees and representatives entering upon the Covered Parcel shall do so at their own risk.

8.3 If the City and/or City Representatives and Con Edison disagree on any aspect(s) of the means and methods to be used or being used to implement a DEC-approved RIWP, IRM Work Plan, or RAWP for a Covered Parcel, they shall attempt, in good faith, to resolve any such differences as soon as practicable, and in no event beyond ten (10) business days of Con Edison's notifying the City that it disagrees with a position taken by the City and/or the City Representatives with respect to the implementation of such a work plan. In the event that resolution of such differences is not reached within this period, the City shall request a meeting with DEC, in which Con Edison may actively participate (unless DEC refuses to allow such participation), to seek guidance and assistance in resolving such differences. Except under exigent circumstances, the Primary City and Con Edison Representatives shall attend such meeting. Within five (5) business days following the meeting with the DEC, the City shall revise its implementation of the work plan in a manner consistent with the advice and guidance given by the DEC during the meeting. In the event the DEC declines to participate in such a meeting with the Parties, the City may continue to implement the work plan in the manner proposed by it and Con Edison may submit to the DEC such comments as Con Edison deems appropriate concerning the City's implementation of the DEC-approved RIWP, IRM Work Plan or RAWP at issue. If the Parties engage in the process set forth in this Section 8.3, the City, while such process is ongoing, may continue to implement the work plan at issue in the manner it believes to be appropriate unless otherwise directed by DEC.

8.4 Notwithstanding anything to the contrary in this Agreement, the City and/or City Representatives shall provide Con Edison with a copy of all DEC-approved final RIWP(s), IRM Work Plan(s), RAAR(s), RAWP(s), OM&M Plan(s), SMP(s), Remedial Investigation Report(s), IRM Report(s), and Final Engineering/Remedial Action Report(s) for the MGP Contamination on the Covered Parcels within fourteen (14) days after such plan(s), report(s), or work plan(s) has or have been approved by the DEC.

Article 9. Budgets

9.1 Before implementing any DEC-approved IRM Work Plan or RAWP that is reasonably expected to cost \$200,000 or more to complete, the City or City Representatives shall provide Con Edison for its approval (which shall not unreasonably be conditioned or withheld) a detailed estimated proposed budget for the implementation of such work plan (each, as it may be amended, a “**Budget**”), together with adequate supporting information. Con Edison shall approve such Budget unless one or more of the costs or expenses to be reimbursed by Con Edison set forth therein is: (a) unnecessary to meet the requirements of the DEC-approved IRM Work Plan or RAWP, (b) wasteful, (c) inaccurate, or (d) fraudulent. The purpose of a Budget is to ensure that each such work plan is implemented in a fiscally responsible manner and to provide Con Edison with a meaningful opportunity to participate in decisions relating to the level of spending for the implementation of each such work plan. The Budgets are not intended to establish arbitrary monetary limitations upon Con Edison’s reimbursement obligations under this Agreement. Each Budget is subject to amendment, as provided below, to reflect such increases in spending as are reasonable and necessary to ensure that such work plan is implemented and completed in a manner satisfactory to the DEC. However, Con Edison shall not be required to reimburse the City for any costs or expenses that are required to be included in a Budget, unless such costs and expenses were included in such a Budget (it being understood and agreed that costs and expenses which in the aggregate do not exceed the most recent Budget by more than \$150,000 do not need to be in the applicable Budget in order to be reimbursable by Con Edison).

9.2 If such IRM Work Plan or RAWP is being implemented in conjunction with a redevelopment plan for a Covered Parcel, the Budget submitted by the City or the City Representatives shall specifically set forth the following categories of costs and/or expenses:

- (a) “**Implementation Costs,**” which are any necessary and reasonable costs and expenses incurred by the City and/or City Representatives conducting any activity described in paragraph (5) in Exhibit “B”;
- (b) “**Baseline Costs,**” which are all necessary and reasonable costs and expenses that the City and/or City Representatives would have incurred constructing the foundation system of the structures and paved areas called for in the redevelopment plan for a Covered Parcel had MGP Contamination not been present on such parcel (provided that the redevelopment plan is implemented in conjunction with the DEC-approved IRM Work Plan and/or RAWP for such parcel), including, but not limited to the following:
 - (i) If the implementation of both the redevelopment plan and DEC-approved IRM Work Plan and/or RAWP for the Covered Parcel entail the excavation of soil from the same area of a Covered Parcel (other than the excavation of trenches to facilitate the installation of underground electric, gas, sewer, water, telecommunication, or other utilities service pipes and wires), the costs and expenses, if any, that the City and/or City Representatives would have incurred: (1) excavating, staging, transporting, and disposing of the soil from such area to the extent necessary for the construction/installation of the foundation grade beams,

foundation slab, basement, and/or other subsurface structure(s) of the building(s) being erected on such area of the Covered Parcel; (2) sheeting, shoring and dewatering of the excavation required for the construction/installation of the foundation grade beams, foundation slab, basement; and/or other subsurface structures of such building(s); (3) storage, treatment, and/or disposal of accumulated groundwater and precipitation runoff from such excavation; and (4) installation/implementation of waterproofing measures and/or system(s) to protect the basement and/or subsurface structures of such building(s) from groundwater infiltration; and

- (ii) If the DEC-approved IRM Work Plan and/or RAWP for the Covered Parcel calls for the installation of an impervious containment cap over one or more areas of the Covered Parcel, the reasonable and necessary costs and expenses, if any, that the City and/or its agencies would have incurred constructing the foundation slab of the new building(s) being erected on such area(s) of the Covered Parcel and the sidewalks, driveway(s), and paved parking facilities or other paved facilities called for in the redevelopment plan for such area(s) of the Covered Parcel;
- (c) **“Reimbursable Implementation Costs,”** which are the Implementation Costs less any applicable Baseline Costs; and
- (d) All other costs and expenses related to the implementation of such work plan.

In the event that the City and/or City Representatives determine(s) that the costs and expenses of completing a DEC-approved RIWP, IRM Work Plan, or RAWP for which no Budget was initially believed to be necessary pursuant to Section 9.1 of this Agreement are subsequently estimated to cost more than \$250,000 to complete, the City shall promptly provide Con Edison a Budget with supporting documentation for completing the work plan.

9.3 Upon its becoming aware of any increase of at least \$150,000 to the estimated total costs set forth in a Budget, the City shall promptly submit a revised Budget to Con Edison.

9.4 If Con Edison disapproves a proposed or revised Budget, Con Edison shall state in writing the basis for its disapproval of and requested modification to such proposed or revised Budget within fifteen (15) business days of receiving the proposed Budget or within ten (10) business days of receiving the revised Budget. Con Edison and the City shall confer and attempt in good faith to resolve their disagreement with respect to the proposed or revised Budget as soon as practicable, and in no event beyond ten (10) business days of the City's receipt of Con Edison's written explanation of its basis for its disapproval of and requested modification to the proposed or revised Budget. If no resolution of such disagreement is reached by Con Edison and the City within such ten (10) business day period (or such later period as the Parties may agree upon), Con Edison may contest the City's eventual request for reimbursement with respect to any such disputed budget item in accordance with Section 10.3.

Article 10. Reimbursement of City Costs and Expenses

10.1 The City and City Representatives shall maintain accurate and complete records of all costs and expenses incurred by it or them with respect to the DEC-approved investigation and remediation programs for the MGP Contamination present on the Covered Parcels and shall, on reasonable advance notice by Con Edison to the City, allow Con Edison and its authorized representatives to inspect and copy all such records.

10.2 Within thirty (30) days after the effective date of this Agreement and its receipt of invoices from the City documenting such costs, Con Edison shall pay the City the sum of \$374,371.75 to reimburse the City for its Past Costs incurred (i.e. invoiced to the City) through November 30, 2007, in connection with the investigation of the MGP Contamination on the Covered Parcels, as provided in Section 4.3 of this Agreement. In the event that the City and or one or more City Representatives incurs additional costs and expenses in connection with the investigation of the MGP Contamination on the Covered Parcels during the period December 1, 2007 through the effective date of this Agreement, the City shall submit to Con Edison invoices documenting such Past Costs as soon as possible after the effective date of this Agreement. Within thirty (30) days after its receipt such invoices, Con Edison shall make a payment to the City to reimburse the City for such additional Past Costs. Con Edison's payment(s) for Past Costs shall be made by check(s) payable to NYCEDC and shall be hand delivered to the office of the President of the NYCEDC at 110 William Street, New York, NY 10038 or sent by overnight mail to the attention of the President of the EDC at that address.

10.3 Subject to and conditioned upon the City's compliance with the terms of this Agreement, Con Edison shall reimburse the City for the costs and expenses for which Con Edison is responsible under this Agreement (other than Past Costs, which are addressed separately under Section 10.2) within thirty (30) days after its receipt of the City's written demand for reimbursement. All demands for reimbursement of any such costs and expenses shall be accompanied by detailed invoices and accountings for the costs and expenses for which reimbursement is demanded and written certification by the City and/or City Representatives that the remedial response work covered by such invoices has been performed consistent with the provisions of this Agreement. In the event Con Edison contests any costs or expenses included in the request for reimbursement, Con Edison shall: (1) pay the undisputed portion of such costs and expenses within thirty (30) days of receiving the City's demand; (2) send written notice of the dispute to the President of NYCEDC, with a copy to the General Counsel of NYCEDC, within fifteen (15) days after receiving the City's demand, and thereafter negotiate in good faith with the President of NYCEDC, or his/her designee, for the purposes of resolving the dispute; and (3) pay the disputed portion of such costs and expenses in accordance with and to the extent required under the resolution reached with the President of NYCEDC or his designee. If the dispute cannot be resolved through such means within such fifteen (15) day period (or such other amount of time, if both Parties agree in writing), Con Edison may seek resolution of the dispute by binding arbitration as provided in Article 12 of this Agreement.

10.4 With respect to requests for reimbursement for any costs or expenses incurred by the City and/or City Representatives and reimbursable by Con Edison under this Agreement, the City and/or City Representatives shall include one or more invoices stating all such costs and expenses together with adequate supporting information, provided, however, that in the event

any invoice includes any Implementation Costs, the City shall prepare, or cause to be prepared, an invoice that shows the Reimbursable Implementation Costs in either of the following ways (it being acknowledged and agreed that in either case all such invoices shall be accompanied by adequate supporting information):

- (a) the invoice shall separately itemize all cost or expense items as either Baseline Costs or Reimbursable Implementation Costs; or
- (b) the invoice shall state (i) a ratio, the numerator of which is the total Baseline Costs for the applicable portion of work and the denominator of which is the estimated total cost for such work as set forth in the most recent Budget, (ii) state the amount due under the invoice for completed work and (iii) the product of the ratio described in clause (i) multiplied by the clause (ii) amount. By way of illustration, if the City's Budget estimates that the total cost of a particular portion of work (e.g. paving) is \$1,000,000 and the Baseline Costs for such work is \$100,000, then an invoice in the amount of \$50,000 for a portion of that work will, when submitted to Con Edison by the City with its request for reimbursement will state that the total Reimbursable Implementation Costs are \$45,000 (i.e. $\$50,000 - [\$100,000 / \$1,000,000 \times \$50,000]$).

10.5 Following the completion of all implementation activities for a Covered Parcel, the City may perform, and/or Con Edison may request, an accounting of the total amount of Implementation Costs, Baseline Costs and Reimbursable Implementation Costs incurred in connection with such work. If Con Edison has overpaid the City under this Agreement, Con Edison shall, at its option, be entitled to a credit against the City's next demand for reimbursement under this Agreement or to a refund for any such overpayment within thirty (30) days after the accounting indicating that Con Edison has overpaid the City is accepted by the Parties. If Con Edison has underpaid the City under this Agreement, Con Edison shall reimburse the City for such underpayment within thirty (30) days after the accounting indicating that Con Edison has underpaid the City is accepted by the Parties and otherwise in the manner specified in Article 10 of this Agreement, except that the City's written demand for reimbursement for such underpayment does not need to be accompanied by any invoices or certifications that the City previously submitted to Con Edison to document and substantiate the incurred cost.

10.6 Con Edison's reimbursement payments to the City under this Agreement shall be made payable to NYCEDC and shall be hand delivered to the office of the President of NYCEDC at 110 William Street, New York, NY 10038 or sent by overnight mail to the attention of the President of NYCEDC at that address. At the option of the City, Con Edison's payments shall instead be made by electronic fund transfer to the NYCEDC bank account(s) specified by the City.

Article 11. Release/Indemnification

11.1 Except as otherwise provided in Section 11.2 of this Agreement, upon the City's receipt of a No Further Action Letter from DEC for any Covered Parcel, provided that Con Edison has made full payment to the City of all costs and expenses required under this Agreement with respect to such Covered Parcel, the City shall on behalf of itself and its

successors and assigns, including its lessees and successors in title to such Covered Parcel: (1) release, covenant not to sue, and agree to forbear from bringing any action, proceeding or suit against Con Edison for any costs and expenses of the remedial response actions of the types specified in Sections 3.1 through 3.5 of this Agreement with respect to such Covered Parcel, including such costs and expenses for any additional investigation and/or remediation work deemed necessary by the DEC and/or DOH due to any change in use (as defined in Title 6, Section 375-2.2(a) of the NYCRR) of such Covered Parcel after the DEC-approved RAWP provided for in this Agreement has been implemented for that parcel; (2) indemnify and hold Con Edison harmless from any claims, demands, causes of action, or proceedings by any third party, including the DEC, for the costs and expenses of such remedial response actions with respect to such Covered Parcel; and (3) release, covenant not to sue, and agree to forbear from bringing any action, proceeding or suit against Con Edison for any diminution in the value of such Covered Parcel due to the MGP Contamination present on such Covered Parcel and/or any Deed Restrictions or Environmental Easement that the DEC requires for such Covered Parcel. However, nothing in this release and indemnification clause shall restrict or prohibit the City from asserting a counterclaim, cross claim, or affirmative defense against Con Edison should Con Edison first assert a claim against the City.

11.2 In the following cases only, the release, covenant not to sue, indemnification, and forbearance specified in Section 11.1 shall not extend to, and the City and its successors and assigns expressly reserve(s) all of its or their respective rights against Con Edison with respect to, any further investigation activities and remedial response actions that DEC requires the City or its successors and assigns to perform for a Covered Parcel for any or all of the reasons specified below after the DEC issues a No Further Action Letter to the City for such Covered Parcel under the VCA:

- (a) Due to the off-site presence of MGP Contamination that may have migrated off-site from sources on such Covered Parcel irrespective of whether the information available to the City and DEC at the time of the development of the DEC-approved RAAR and/or RAWP for such Covered Parcel pursuant to the VCA disclosed the existence or potential existence of such off-site migration of MGP Contamination;
- (b) Due to environmental conditions related to such Covered Parcel which were unknown to DEC at the time of its approval of the RAAR and/or RAWP for such Covered Parcel pursuant to the VCA and which indicate that conditions at such Covered Parcel are not sufficiently protective of human health and the environment for the contemplated use of such Covered Parcel specified in the VCA or considered by the DEC when it approved the RAAR and/or RAWP for the Covered Parcel; and
- (c) Due to information received, in whole or in part, after DEC's approval of any Final Engineering Report (or Remedial Action Report) for such Covered Parcel which indicates that the remediation activities carried out in accordance with the DEC-approved RAAR and/or RAWP for such Covered Parcel are not sufficiently protective of human health and the environment for the contemplated use of such

Covered Parcel specified in the VCA or considered by the DEC when it approved the RAAR and/or RAWP for such Covered Parcel.

11.3 Within thirty (30) days after the City receives a No Further Action Letter from the DEC for any parcel within the Site as to which the City has agreed to provide Con Edison with a release, covenant not to sue, and indemnification in connection with the MGP Contamination present on any such parcel, the City shall execute in recordable form and file such release, covenant not to sue, indemnification with the New York City Register for recording in the City Register's Land Division records for such parcel.

Article 12. Arbitration

12.1 The City and Con Edison hereby agree that whenever this Agreement provides for the resolution of a dispute between them through binding arbitration, the arbitration shall be conducted pursuant to the procedures set forth in this Article 12.

12.2 Any dispute subject to binding arbitration under this Agreement shall be resolved in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA"), as modified herein. The arbitration will take place in New York City. Judgment based upon the arbitration award may be entered by any court with jurisdiction to do so.

12.3 The City and Con Edison agree to the expedited procedures provided for in the AAA rules.

12.4 A single arbitrator will decide the dispute. The City and Con Edison will attempt to agree on the identity of the arbitrator, but if they cannot agree within ten (10) days of receipt of a notice delivered by either party to the dispute to the other requesting arbitration and setting forth in reasonable detail, the nature of the dispute, the AAA will designate the arbitrator. However chosen, the arbitrator will be unaffiliated with either such party and be disinterested in the dispute, but knowledgeable concerning the general subject matter of hazardous substances remediation.

12.5 Unless otherwise ordered by the arbitrator, discovery will proceed as follows: within twenty (20) days of the designation of the arbitrator, each side will disclose to the other all information required, pursuant to the applicable rules of the AAA.

12.6 The hearing will take place no later than sixty (60) days after the designation of the arbitrator.

12.7 The arbitrator will have the power to issue an award that is just, equitable and within the scope of this Agreement, including specific performance. The arbitrator will assess any arbitration costs or fees, if and as appropriate. The arbitration will be the exclusive forum for resolving the dispute that may be subject to arbitration under this Agreement. Nevertheless, the prevailing party may seek judicial relief to enforce an arbitral award in its favor.

12.8 With respect to arbitration disputes under Section 10.3, all Reimbursable Implementation Costs and all other amounts due under this Agreement shall be presumed reasonable and necessary, and therefore reimbursable, unless Con Edison can demonstrate by a

preponderance of the evidence that the disputed cost (a) is not a Reimbursable Implementation Cost or otherwise reimbursable by Con Edison under this Agreement; (b) was required to be included in a Budget under Article 9 of this Agreement but was not included in any such Budget (provided, however, that if the omission of such cost or expense from such Budget was due to Con Edison's refusal to approve such Budget, such cost or expense will be deemed reasonable and necessary, and therefore reimbursable, if the City can demonstrate by a preponderance of the evidence that Con Edison exceeded the limits of its discretion under Section 9.1 in refusing to approve such cost or expense); (c) is unnecessary to meet the requirements of the DEC-approved IRM Work Plan or RAWP, (d) is wasteful, (e) is inaccurate, and/or (f) is fraudulent.

Article 13. Attorney-Client Privilege

No party to this Agreement shall be deemed to have waived its attorney-client or deliberative process privilege by entering into this Agreement.

Article 14. Relationship of Parties

Nothing in this Agreement shall be deemed to create a partnership, joint venture and/or principal and agency relationship between the City and Con Edison.

Article 15. Successors and Assigns

This Agreement is binding upon and shall inure to the benefit of the City and Con Edison and their respective heirs, successors, legal representatives and assigns. No assignment or delegation of the obligations imposed upon a party hereto shall release such assigning party without the prior written consent of the other party hereto, which approval shall not be unreasonably conditioned, delayed, or withheld.

Article 16. Venue and Law

This Agreement shall be governed and interpreted in accordance with the laws of the State of New York, and all actions for its enforcement or interpretation shall be brought in a court of competent jurisdiction in the State of New York.

Article 17. Severability

Notwithstanding anything to the contrary in this Agreement, if any provision of this Agreement or the application thereof to any person or circumstances is deemed invalid or unenforceable to any extent by any court of competent jurisdiction, such provision shall be deemed modified so that the intent thereof shall be effected to the greatest extent permitted by law and the remainder of this Agreement and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

Article 18. Entire Agreement

This Agreement embodies the entire contract between the City and Con Edison hereto with respect to the Covered Parcels and supersedes any and all prior agreements and

understandings, written or oral, formal or informal. No changes, waivers, modifications, or amendments to or of this Agreement, of any kind whatsoever, claimed by either party hereto shall have any force or effect unless the same is contained in a writing and is fully executed by the party against whom such matter is asserted.

Article 19. Notices

Except as otherwise provided above in Article 10, whenever under the terms of this Agreement notice is required to be given, or a demand for reimbursement, invoice, report, work plan, or other document is required to be submitted by one party to the other, such notice, demand, invoice, report, work plan or other document shall be sent by overnight mail or hand-delivered to the following individuals at the addresses specified below:

For the City: President
New York City Economic Development Corporation
110 William Street
New York, NY 10038

with a copy to: General Counsel
New York City Economic Development Corporation
110 William Street
New York, NY 10038

For Con Edison: Randolph S. Price
Vice President
Con Edison
4 Irving Place
New York, NY 10003

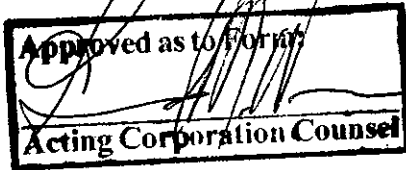
with a copy to: Director, Remediation
Con Edison
31-01 20th Avenue, Building 136
Astoria, NY 11105

Article 20. Other Portions of the Site

The Parties hereto acknowledge that the Covered Parcels constitute only a portion of the Site. It is not the intention of the Parties hereto to alter the respective obligations of each with respect to costs and expenses incurred in connection with the investigation and/or remediation of any areas of the Site other than the Covered Parcels.

IN WITNESS WHEREOF, the City and Con Edison each intending to be bound hereto, execute this Agreement by their duly authorized representatives.

**NEW YORK CITY DEPARTMENT OF
SMALL BUSINESS SERVICES**



By: _____

Andrew Schwartz

Title: _____

First Deputy Commissioner

Date: _____

**CONSOLIDATED EDISON COMPANY
OF NEW YORK, INC.**

By: _____

Randolph Price

Title: _____

VP - EHS

Date: _____

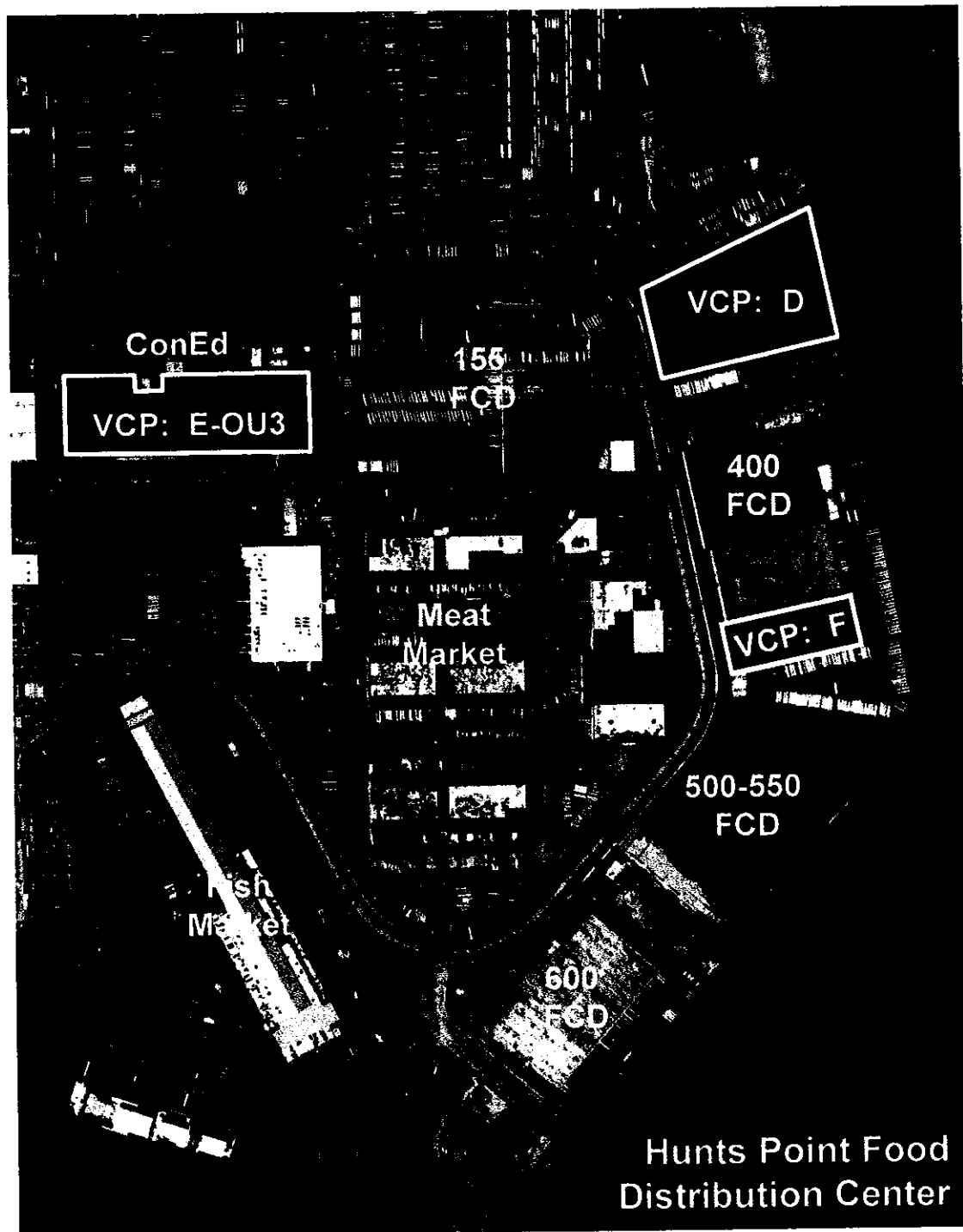
4/2/08

EXHIBIT A

**MAPS AND LEGAL DESCRIPTIONS OF
PARCEL D, PARCEL E-OU3, AND PARCEL F**

Exhibit A

Maps and Surveys of "Covered Sites"





State Certificate of Authorization
No. GA-276945

Engineers
Landscape Architects
Land Surveyors
Planners
Environmental Specialists

Legal Description
Of A Portion
Of
Lot 500, Block 2781
Site "E" OU-3
And
M & R Staging Area
Borough of the Bronx
County of the Bronx
State of New York
TRG No. 03-024

Beginning at a point, said point being the southwesterly corner of land n/f Consolidated Edison Company Property and the easterly sideline of Hunts Point Avenue (100' wide) marked by an iron pipe to be set; thence

1. Along said property of Con. Edison, North 78° 01' 34" East, a distance of 139.32 feet to an iron pipe to be set; thence
2. Still with said lot, South 11° 58' 26" East, a distance of 61.13 feet to an iron pipe to be set; thence
3. Still with said lot, North 78° 01' 34" East, a distance of 64.00 feet to an iron pipe to be set; thence
4. Still with said lot, North 11° 58' 26" West, a distance of 61.13 feet to an iron pipe to be set; thence
5. Still running along land n/f Con Edison, North 78° 01' 34" East, a distance of 612.00 feet to an iron pipe to be set; thence
6. Leaving said lands and running along the westerly sideline of Farragut Street, South 11° 58' 26" East, a distance of 287.13 feet to the northerly sideline of Viele Avenue; thence
7. Along the northerly sideline of Viele Avenue (now vacated), South 78° 01' 34" West, a distance of 940.00 feet to the intersection of said sideline and the easterly sideline of Halleck Street; thence
8. Along the easterly sideline of Halleck Street, North 11° 59' 04" East, a distance of 312.00 feet to its intersection with the southwesterly sideline of Hunts Point Avenue (formerly East Bay Avenue); thence
9. Along said sideline, South 38° 49' 36" East, a distance of 78.50 feet; thence
10. Leaving said sideline and running along an easement line as recorded in Deed Book 366/35, North 51° 10' 24" East, a distance of 100.00 feet to the point of beginning.

Containing 263,616 square feet or 6.05 acres of land, more or less.



Lot 500, Block 2781 Site E.doc



State Certificate of Authorization
No. 24GA27969200

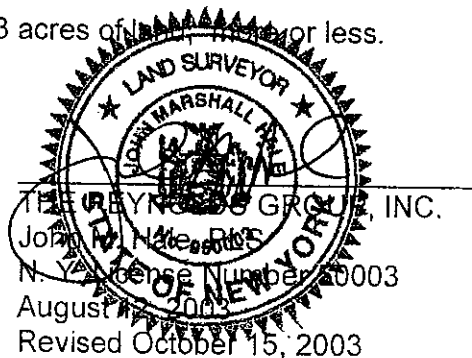
Engineers
Landscape Architects
Land Surveyors
Planners
Environmental Specialists

Legal Description
Of a Portion
Of
Lot 500 Block 2781
SITE "D"
Borough of the Bronx
County of the Bronx
State of New York
TRG No. 03-024

Beginning at a point, said point being the intersection of the easterly sideline of Food Center Drive with the southerly line of the New York City Terminal Market in common with the northerly line of Site "D"; thence

1. Along the southerly line of the New York City Terminal Market North $49^{\circ} 46'$ East a distance of 717.3' to a point on the U.S. Pierhead & Bulkhead Line for the Bronx River; thence
2. Running southerly along said Bulkhead Line South $23^{\circ} 14'$ East a distance of 562.0'; thence
3. Leaving said Bulkhead Line and running with an existing chain link fence for Krasdale Food Industries, South $66^{\circ} 18'$ West a distance of 682.7' to the easterly sideline of Food Center Drive; thence
4. Along said sideline North $23^{\circ} 45'$ West a distance of 357.8' to the point and place of beginning.

Containing 314,883 square feet or 7.23 acres of land, more or less.



Block 2781, Lot 500-Site D.Jeg

1. THIS SURVEY IS VALID ONLY WHEN EMBOSSED SEAL IS IMPRINTED HEREON.
2. THE CERTIFICATION SHOWN HEREON IS NOT TO BE LIABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT EMPLOYERS.
3. THE RESEARCHER, COUNSEL, INC., AND ITS EMPLOYEES ARE NOT LIABLE FOR ERRORS WITHIN, AND/OR QUESTIONS FROM ANY DOCUMENTS PROVIDED BY OTHERS.
4. HORIZONTAL DATUM IS OTHERS ZONE IS INTERNATIONAL FEET. GRID, VERTICAL DATUM IS NAD 83 (FEET).
5. SUFFICIENT INFORMATION WITHIN HEREON IS APPROPRIATE AND SUBJECT TO CHANGE.

3. MAP ENTITLED CONSOLIDATED EDISON COMPANY, HUNTS POINT COMPRESSION STATION, BRIDGE NEW YORK, SITE PLAN, PREPARED BY STONE & WEBSTER ENGINEERING CORPORATION, DRAWING NUMBER 17297-67-1A-1.
4. MAP ENTITLED CONSOLIDATED EDISON COMPANY, HUNTS POINT COMPRESSION STATION, BRIDGE NEW YORK, COMPRESSION STATION, PREPARED BY STONE & WEBSTER ENGINEERING CORPORATION, DRAWING NUMBER 17297-67-1B-2.
5. MAP IN PLAN OF SECTION 5, SECTION 5 OF FINAL MAPS AND PROFILES OF THE ADRIAN & 54TH WARD, NEW YORK CITY TOPOGRAPHICAL BUREAU, DECEMBER 30th, 1922.
6. MAP DISCONTINUING AND CLOSING THE STREET SYSTEM IN THE DISTRICT BORDERED BY WALLACE ST., CONVENTER ROAD, 147 AVENUE AND BRIDGE WATER & EAST 81ST AVE., PLAN NO. 19877, MARCH 20, 1941, BY CITY OF NEW YORK ENGINEERING BUREAU, TOPOGRAPHIC DIVISION.
7. MAP OF PROPERTY AT HUNTS POINT, BRIDGE COUNTY - NEW YORK, DATED FEB. 11, 1963 BY CHAS. J. STAMPA, LAST REVISED JUNE 25, 1964.
8. MAP SHOWING THE CHANGES TO LINES AND GRACES IN WALLACE STREET AT HUNTS POINT AVENUE, PLAN NO. 19839, DATED MARCH 2, 1941 BY CITY OF NEW YORK ENGINEERING BUREAU - TOPOGRAPHICAL DIVISION.
9. MAP DISCONTINUING AND CLOSING HUNTS POINT AVE. FROM WALLACE STREET TO EARRCOTT ST. & WELLS AVE. AND BRIDGE RD., FROM WALLACE STREET IN HUNTS POINT, PLAN NO. 11772, NOT DATED, BY CITY OF NEW YORK BUREAU OF TOPOGRAPHY.

(HEAVY) CLERK TO THE FOLLOWING PARTIES THAT:
 1. AM A PROFESSIONAL LAND SURVEYOR LICENSED TO
 PRACTICE IN THE STATE OF NEW JERSEY, AND
 THAT THIS PLAN IS BASED ON AN ACTUAL FIELD
 SURVEY PERFORMED UNDER MY IMMEDIATE
 SUPERVISION. I FURTHER DECLARE TO THE
 BEST OF MY KNOWLEDGE AND BELIEF, THAT THIS
 PLAN IS A CORRECT AND ACCURATE REPRESENTATION
 OF CONDITIONS EXISTING AS OF THE DATE HEREON.

**The Reynolds
Group Inc.**

State of New Jersey
University of Medicine & Dentistry
Dental School
Newark, N.J. 07102



SITE "D"

BLOCK 278E
PART OF LOT 520

NEW YORK
JAN 21 1964

Job number	← Drawing number
03-024-1	

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of 1000	

Figure 1

22

8/2/23 1 of 1



State Certificate of Authorization
No. GA-276945

Engineers
Landscape Architects
Land Surveyors
Planners
Environmental Specialists

Legal Description
of an Expansion Area
Within the existing
Krasdale Building Site
Borough of the Bronx
County of the Bronx
State of New York
TRG No. 03-024

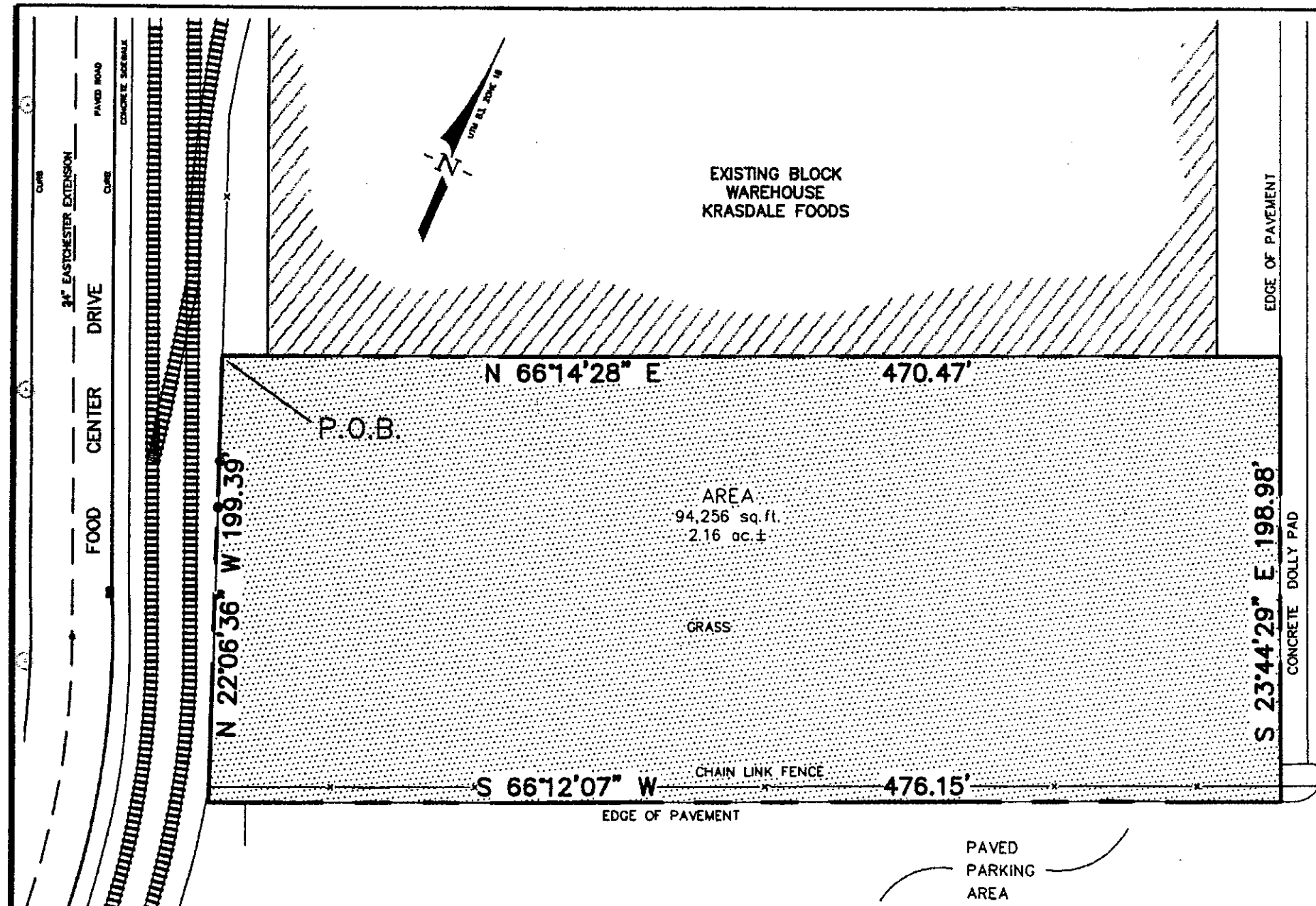
Beginning at a point, said point being the intersection of the easterly sideline of Food Center Drive and the extension of the southerly building line of the existing Krasdale building (this date) in a westerly direction, at or near an existing chain link fence; thence

1. Running in an easterly direction along the southerly line of the existing Krasdale Building North $66^{\circ} 14' 28''$ East a distance of 470.47' to a point at or near a concrete dolly pad; thence
2. Leaving said building line and running southerly along the westerly edge of said dolly pad (this date) South $23^{\circ} 44' 29''$ East a distance of 198.98' to a point at or near an existing pavement area (this date); thence
3. Running westerly along said existing pavement area South $66^{\circ} 12' 07''$ West a distance of 476.15' to a point intersecting with the existing chainlink fence along Food Center Drive; thence
4. Running along said fence North $22^{\circ} 06' 36''$ West a distance of 199.39' to the point and place of beginning.

Containing 94,256 square feet or 2.16 acres of land, more or less.

Krasdale Site.leg





GENERAL NOTES

1. THIS SURVEY IS VALID ONLY WHEN AN EMBOSSED SEAL IS AFFIXED HERETO.
2. THIS SURVEY IS SUBJECT TO SUCH FACTS AS AN ACCURATE TITLE SEARCH MAY DISCLOSE.
3. THIS SURVEY IS SUBJECT TO ALL EASEMENTS OF RECORD.



Engineers
Landscape Architects
Land Surveyors
Planners
625 N. Thompson Street
Raritan, N.J. 08869
908-722-1500
Fax 908-722-7035

**The Reynolds
Group Inc.**

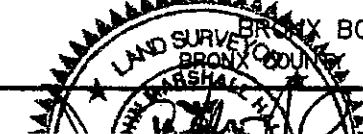
State of New Jersey
Certificate of Authorization
Number CA-276945

Henry E. Reynolds Jr., P.L.S., P.P.

F. Michael Ardman, P.E., P.P.
Richard R. Bellia, P.E., P.P.

KRASDALE FOODS

EXPANSION EASEMENT



BRONX BOROUGH
NEW YORK

EXHIBIT B

IMPLEMENTATION COSTS

EXHIBIT B

Except as otherwise provided below in this exhibit, Con Edison is responsible under the Agreement for reimbursing the City for 100% of the following remediation-related costs and expenses that the City and/or the City Representatives incur pursuant to the VCAs for the MGP Contamination on the Covered Parcels:

- (1) Engineering/environmental consulting costs and expenses associated with negotiations with the DEC regarding the scope(s) and implementation schedule(s) of IRM Work Plan(s), RAAR(s), RAWP(s), OM&M Plan(s), and/or Site Management Plan(s) with the DEC for the MGP Contamination on any Covered Parcel(s);
- (2) Engineering/environmental consulting and surveying costs and expenses associated with the development and preparation of proposed and DEC-approved final IRM Work Plan(s), RAAR(s), RAWP(s), OM&M Plan(s), and/or SMP(s) for the MGP Contamination on any Covered Parcel(s);
- (3) Engineering/environmental consulting costs and expenses associated with the development, preparation and implementation of Health and Safety Plans, Community Air Monitoring Plans, Site Operations Plans, Odor Control Plans, and other plans and documents required by the DEC for the implementation of DEC-approved final IRM Work Plan(s) and/or RAWP(s) for the MGP Contamination on any Covered Parcel(s);
- (4) Engineering/environmental consulting and other costs and expenses associated with the preparation of applications for government agency permits required for the implementation of DEC-approved final IRM Work Plan(s) and/or RAWP(s) for the MGP Contamination on any Covered Parcel(s), including any application or permit fees charged by the government agencies with jurisdiction to issue such permits;
- (5) To the extent that such costs and expenses exceed the Baseline Costs (if any) for a Covered Parcel, the remediation contractor costs incurred for the implementation of the DEC-approved final IRM Work Plan(s) and/or RAWP for the MGP Contamination on such Covered Parcel, including, without limitation: the costs of the equipment and materials required for the performance and completion of the remedial response activities specified in such work plan(s); the costs of constructing/installing the containment structures (such as underground vertical flow barriers and/or clean fill or paved caps), coal tar and/or petroleum recovery systems, groundwater monitoring and/or treatment systems, vapor barriers, and/or soil gas ventilation systems specified in such work plan(s); the costs of any on-Site or off-Site testing of the MGP-contaminated soil, groundwater, and/or waste materials removed from the Covered Parcel(s) pursuant to such work plan(s); the costs of transporting such soil, groundwater, or waste materials to off-Site commercial disposal and/or treatment facilities acceptable to Con Edison, and the

costs of the disposal and/or treatment of such soil, groundwater, and/or waste materials at those facilities;

- (6) Engineering/environmental consulting costs and expenses associated with the supervision of the implementation of DEC-approved final IRM Work Plan(s) and DEC-approved RAWP(s) for the MGP Contamination on any Covered Parcel(s) by New York State licensed professional engineer(s) and the preparation of proposed and DEC-approved final IRM Work Report(s) and/or Final Engineering/Remedial Action Report(s) called for in any such work plan(s) or the City's VCA with the DEC for the Covered Parcel;
- (7) Engineering/environmental consulting costs and expenses associated with the preparation of Deed Restrictions and/or Environmental Easement(s) for any Covered Parcel(s) pursuant to the City's VCA with the DEC for the MGP Contamination on any such parcel(s), including the costs of surveying for Covered Parcel(s) for the purpose of developing any metes and bounds descriptions of the Covered Parcel(s) that the DEC requires be incorporated in such Deed Restrictions and/or Environmental Easement(s); and
- (8) The fees incurred by the City (or its agencies, departments and/or contractors) recording any DEC-required Deed Restrictions and/or Environmental Easements for any Covered Parcel(s) pursuant to the City's VCAs with the DEC for such parcel(s) and the costs of any title insurance that the DEC requires the City to procure in connection with the Deed Restrictions and/or Environmental Easement(s) for any such Covered Parcel(s).

EXHIBIT C

ACCEPTABLE COMMERCIAL DISPOSAL/TREATMENT FACILITIES FOR MGP- CONTAMINATED SOIL, GROUNDWATER, AND WASTE MATERIALS

Con Edison-Approved
Waste Disposal Facilities
Hazardous Waste

Facility	City	State	Facility Type	Waste Type
Clean Harbors of Braintree, Inc.	Braintree	MA	Store/Transfer/Treat	Hazardous - RCRA; PCB Waste
Clean Harbor of Connecticut	Bristol	CT	Store/Transfer/Treat	Hazardous - RCRA; PCB Waste
Clean Earth of NJ	Kearny	NJ	Store/Transfer/Treat	Hazardous - RCRA
Cycle Chem	Elizabeth	NJ	Store/Transfer/Treat	Hazardous-RCRA; PCB Waste; Asbestos
Phillips Service Corp.	Hatfield	PA	Store/Transfer/Treat	RCRA Liquids/Solids
The EQ Company-Wayne landfill/Mich. WDT	Belleville	MI	Landfill/Waste treatment process	RCRA/PCB waste - Solids/Industrial
Chemical Waste Management	Model City	NY	Landfill/Storage/Treat	RCRA/PCB Waste-Solids/Liquids
E. I. Dupont	Deepwater	NJ	Treat	RCRA Wastewater
Bridgeport United Recycling	Bridgeport	CT	Treatment - Solvent Recovery	RCRA Waste Oil; Oily Water
Clean Harbors	San Antonio	TX	Incineration	RCRA Liquids/Solids
Clean Harbors	Deer Park	TX	Incineration	RCRA/PCB Waste - Liquids/Solids
Clean Harbors Env. Services	Kimball	NE	Incineration	RCRA Liquids/Solids
Casie Protank/Mid Atlantic Technologies	Vineland	New Jersey	Thermal Treatment/Recycling	Hazardous MGP Contaminated Soil
Clean Harbors PPM, former Rollins	Bridgeport	NJ	Incineration	RCRA Liquids/Solids
Keystone Cement Company	Bath	PA	Thermal Treatment	RCRA Liquids/Solids
Clean Harbors Env. Services former SK	Twinsburg	OH	Storage/Treatment	RCRA Liquids/Solids
Clean Harbors of Baltimore, Inc	Baltimore	MD	Storage/treatment/transfer	RCRA Liquids/Solids
Safety Kleen Corporation	Linden	NI	Storage, treatment & recycling facility	RCRA Liquids/Solids - Solvents

Non-Hazardous Waste Disposal and Treatment Facilities

Facility	City	State	Facility Type	Waste Type
Waste Management	G.R.O.W.S.	PA	Landfill	Industrial
Clean Earth of Maryland	Hagerstown	Maryland	Chemical Stabilization	Industrial
BFI - Conestoga	Morgantown	PA	Landfill	Industrial
Tilcone	Wharton	NJ	Treatment	Industrial
Clean Water	Staten Island	NY	Treat	Oil/Water < 2 PPM PCBs
B. I. Dupont	Deepwater	NJ	Treat	Oil/Water < 2 PPM PCBs
ESMI of NJ	Keasbey	New Jersey	Thermal Desorption	Nonhazardous MGP Waste
New CEI Inc.	Philadelphia	Pennsylvania	Thermal Treatment	Nonhazardous MGP Contaminated Soil
Environmental Soil Management (ESMI)	Fort Edwards	New York	Thermal Treatment	Nonhazardous MGP Waste
Clean Earth of New Castle, Inc.	New Castle	DE	Thermal Treatment	Nonhazardous MGP Waste
Waste Management	Tullytown	PA	Landfill	Industrial
American Ref-Fuel Co of Niagara	Niagara Falls	New York	Thermal Treatment	Nonhazardous MGP Waste

C D Waste Disposal and Treatment Facilities

Facility	City	State	Facility Type	Waste Type
Con Agg Recycling	Bronx	NY	Recycling	Concrete, Soil, Rock, Asphalt
Jamaica Recycler	Jamaica - (Q)	NY	Recycle/Transfer	Concrete, Soil, Rock, Asphalt
Justus Recycler	Bronx	NY	Recycle/Transfer	Concrete, Soil, Rock, Asphalt
Evergreen Recycling	Flushing, Queens	NY	Recycle	Concrete, Soil, Rock, Asphalt
Alloco Recycling Corp.	Brooklyn	New York	Recycle/Transfer	Fill and Aggregate Material
Deep Green of New York	New Windsor	New York	Thermal Treatment	Nonhazardous Petroleum Contaminated Soil
110 Sand Company Landfill	Melville	New York	C&D/Landfill	Concrete, Steel, Asphalt,
Raines & Welsh & Sons Contractors, Inc.	West Haverstraw	New York	Recycling	Concrete, Soil, Rock, Asphalt
Waste Management of Yonkers	Yonkers	New York	Recycling	Concrete, Soil, Rock, Asphalt
Bronx County Recycling	Bronx	New York	Recycling	Concrete, Soil, Rock, Asphalt
Peckham Material Corp.	Porchester	New York	Recycling	Concrete, Soil, Rock, Asphalt