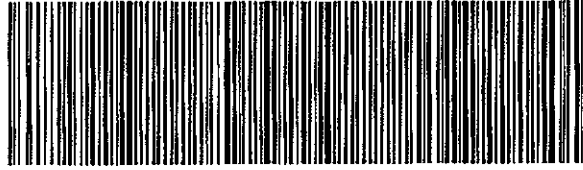




Office of the  
Richmond County Clerk  
130 Stuyvesant Place  
Staten Island, NY 10301



ACS-000000000367701-000000000494699-014

Hon. Stephen J. Fiala, County Clerk

Recording and Endorsement Cover Page

Document Id: 000000000494699 Document Date: 01/14/2013 Preparation Date: 02/15/2013  
Document Type: DECLARATION  
Document Page Count: 14

PRESENTER:  
LINDSAY METCALF  
1430 BROADWAY  
TRC ENGINEERS  
NEW YORK, NY 10018

RETURN TO:  
CHARLES GUDER  
1430 BROADWAY  
TRC ENGINEERS  
NEW YORK, NY 10018

PROPERTY DATA # OF BLOCKS 1 # OF LOTS 2

Block Lot Unit Address  
1400 1 Entire Lot 3668 WESTERN AVENUE  
Property Type: Industrial Building  
"And Addl Blocks and/or Lots"

PARTIES

GRANTOR  
THE PORT AUTHORITY OF NY AND NJ  
225 PARK AVENUE SOUTH  
NEW YORK, NY 10003

GRANTEE  
THE PORT AUTHORITY OF NY AND NJ  
225 PARK AVENUE SOUTH  
NEW YORK, NY 10003

PAYMENT DETAIL

Make Checks Payable to:  
-----  
Richmond County Clerk: 61.00 Recording Fees  
-----  
Total Payments For This Document: 61.00  
-----

**FEES PAID**

EXAM VM DATE FEB 15 2013

RECORDED IN RICHMOND COUNTY

LAND DOC# 464791  
27-DECL,CONT,WAIVER

02/15/2013 03:46:11 P.M.  
RECEIPT: 9684 FEE: \$61.00  
RICHMOND COUNTY CLERK

FEB 15 2013

*S. Fiala*  
COUNTY CLERK

**PLEASE RECORD AND RETURN TO:  
ELIZABETH ROGAK, ESQ.  
THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY  
LAW DEPARTMENT - 13<sup>TH</sup> FLOOR  
225 PARK AVENUE SOUTH  
NEW YORK, NEW YORK 10003-1604**

**DECLARATION OF COVENANTS AND RESTRICTIONS**

**PROPERTY: Port Ivory Voluntary Cleanup Agreement Site 1  
Tax Lots 1, 300, P/O 200, Block 1400  
Borough of Staten Island, County of Richmond  
City and State of New York**

**THIS COVENANT**, made the 14 day of January 2013, by The Port Authority of New York and New Jersey (the Port Authority), a body corporate and politic, created by Compact between the States of New York and New Jersey, with the consent of the Congress of the United States of America and having an office for the transaction of business at 225 Park Avenue South, New York, New York 10003-1604:

**WHEREAS**, the Port Authority is the subject of a Voluntary Agreement executed by its Chief Operating Officer on June 18, 2004 ("Agreement") as part of the New York State Department of Environmental Conservation's (the "Department's") Voluntary Cleanup Program, namely that parcel of real property designated as VCP Site # V-00615-2 (Site 1) located at 40 Western Avenue, Tax Lot Nos. 1, 300, and p/o 200, Block 1400 in the Borough of Staten Island, County of Richmond, State of New York, which is part of lands conveyed by The Proctor & Gamble Manufacturing Company to The Port Authority of New York and New Jersey by deed dated December 18, 2000 and recorded in the Richmond County Clerk's Office on February 23, 2001 at Reel 10921 at Page 023 *et seq.* and being more particularly shown on a map and described in metes and bounds contained in a Notice of Agreement, made as of September 17, 2004 recorded in the Office of the Richmond County Clerk on January 14, 2005 at Reel 19739, Page 234 *et seq.*, a copy of which is attached to this Declaration and made a part hereof hereto as Appendix "A" and hereinafter referred to as the "Property"; and

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

**NOW, THEREFORE**, the Port Authority, for itself and its successors and/or assigns, covenants that:

First, the Property subject to this Declaration of Covenants and Restrictions is that shown and described in the recorded Notice of Agreement attached hereto as Appendix A.

Second, unless prior written approval by the Department or, if the Department shall no longer exist, any New York State agency or agencies subsequently created to protect the environment of the State and the health of the State's citizens, hereinafter referred to as "the Relevant Agency," is first obtained, there shall be no construction, use or occupancy of the Property that results in the disturbance or excavation of the Property, except in accordance with the most recent NYSDEC-approved Site Management Plan (Approved Site Management Plan).

Third, the owner of the Property shall maintain the cap covering the Property by maintaining its integrity, as described in the Approved Site Management Plan approved by the Department.

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

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

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

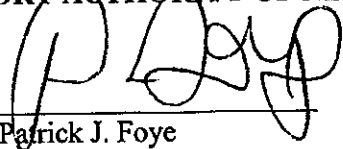
Seventh, the owner of the Property shall continue in full force and effect any institutional and engineering controls required for the Remedy and maintain such controls, unless the owner first obtains permission to discontinue such controls from the Department or Relevant Agency, in compliance with the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

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

Ninth, any deed of conveyance of the Property, or any portion thereof, shall recite, unless the 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.

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

BY:   
Patrick J. Foye

TITLE: Executive Director

DATED: 11/14/13

| APPROVED   |  |
|--|--|
| FORM   | TERMS  |
|  |  |



APPENDIX A  
NOTICE OF AGREEMENT

# EXHIBIT

PLEASE RECORD AND RETURN TO  
HARRY K. BARR, ESQ.  
THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY  
LAW DEPARTMENT -14<sup>TH</sup> FLOOR  
225 PARK AVENUE SOUTH  
NEW YORK, NEW YORK 10003-1604

## NOTICE OF AGREEMENT

**Property: Port Ivory Voluntary Cleanup Agreement Site 1**  
**Tax Lots 1, 300, P/O 200, Block 1400**  
**Borough of Staten Island, County of Richmond**  
**City and State of New York**

REEL 19739 PAGE 234

This Notice is made as of the 17<sup>th</sup> day of September, 2004 by The Port Authority of New York and New Jersey, a body corporate and politic, created by Compact between the States of New York and New Jersey, with the consent of the Congress of the United States of America, with its principal office at 225 Park Avenue South, New York, New York 10003, regarding a parcel of real property located at 40 Western Avenue, Staten Island, Richmond County, New York 10303 which is comprised of Tax Lots 1, 300 and part of 200, Block 1400. Attached as Appendix "A" is a copy of a signed and sealed map of the Site providing a depiction and metes and bounds description of the Site together a separate metes and bounds description of the Site (the "Property"); and

**WHEREAS**, The Port Authority of New York and New Jersey ("Volunteer") entered into an agreement with the New York State Department of Environmental Conservation, (sometimes hereafter referred to as the "Department") bearing Index # W2-0957-02-04 (the "Agreement"), concerning contamination which is or may be present on the Property, which Agreement was executed on behalf of the Department on July 13, 2004; and

**WHEREAS**, in return for the remediation of the Property pursuant to the Agreement to the satisfaction of the Department, the Department will provide Volunteer and its lessees and sublessees, grantees, successors, and assigns, including their respective secured creditors, with a release, covenant not to sue, and forbearance from bringing any action, proceeding, or suit related to the Site's further investigation or remediation, subject to certain reservations set forth in the Agreement; and

**WHEREAS**, pursuant to the Agreement, Volunteer agreed to cause the filing of a Notice of the Agreement with the Richmond County Clerk in accordance with Paragraph IX of the Agreement to give all parties who may acquire any interest in the Property notice of the Agreement.

REEL 9739 PAGE 235

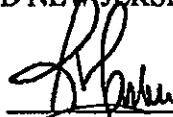
**NOW, THEREFORE,** Volunteer, for itself and for its successors and assigns, declares that:

1. This Notice of Agreement is hereby given to all parties who may acquire any interest in the Property; and

2. This Notice shall terminate upon the filing of a Notice of Termination of this Agreement after having first received approval to do so from the New York State Department of Environmental Conservation or having terminated the Agreement pursuant to its Paragraph XII.

**IN WITNESS WHEREOF,** Volunteer has executed this Notice of Agreement by its duly authorized representative.

THE PORT AUTHORITY OF NEW YORK  
AND NEW JERSEY

By:   
Richard M. Larrabee  
Title: Director, Port Commerce  
Department

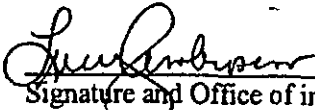
Date: 9-17-04



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

On the 17<sup>th</sup> day of September, in the year 2004, before me, the undersigned, personally appeared Richard M. Larrabee, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name 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.

REEL 19739 PAGE 236

  
Signature and Office of individual  
taking acknowledgment

LUCY AMBROSINO  
NOTARY PUBLIC, STATE OF NEW YORK  
No. 01AM6101070  
QUALIFIED IN NEW YORK COUNTY  
MY COMMISSION EXPIRES NOV. 3, 2007

**Appendix "A"**

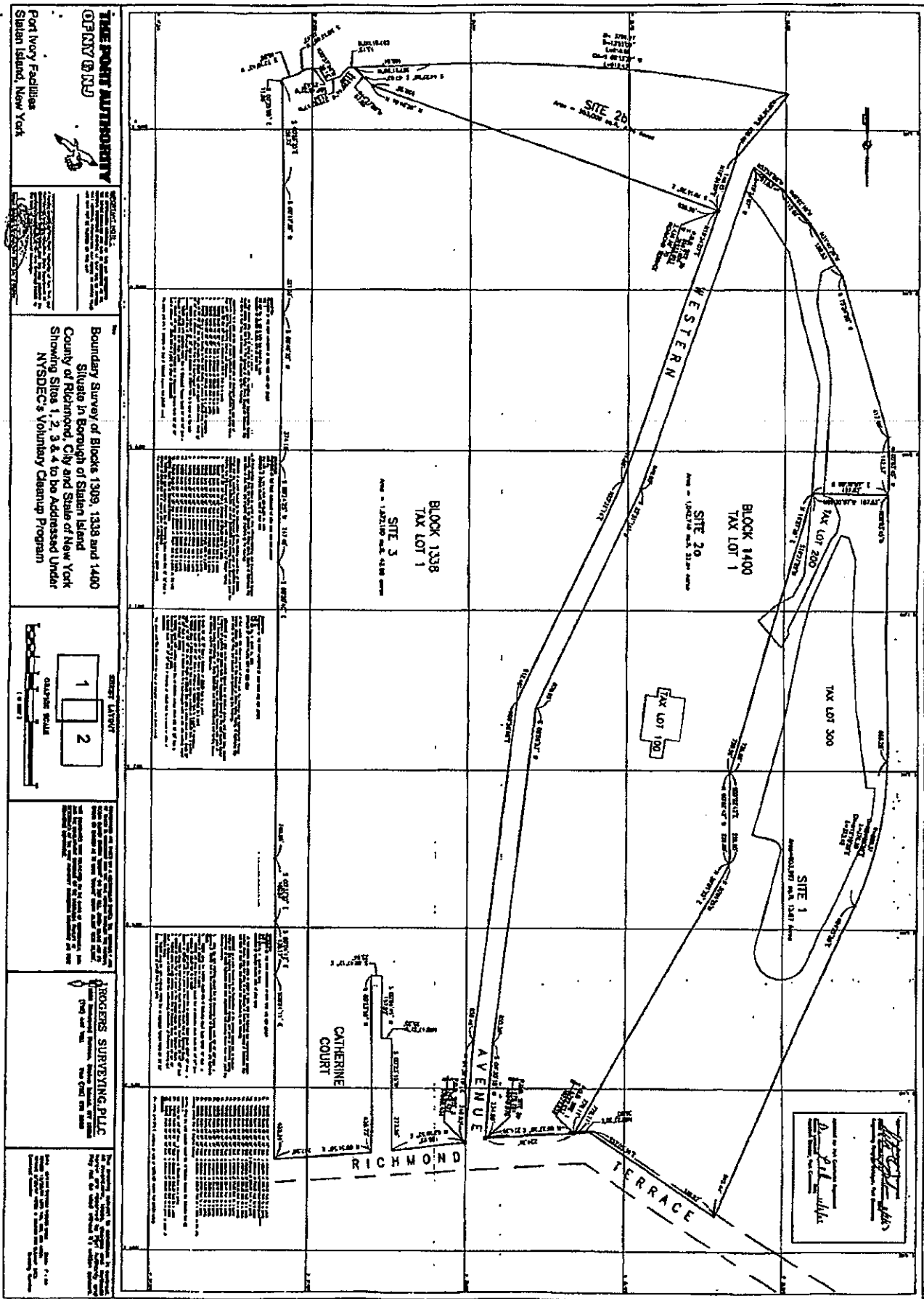
**(to Exhibit "D"  
Notice of Agreement)**

**Map of the Property  
(Inclusive of metes and bounds description)**

**Metes and Bounds Description**

REEL 19739 PAGE 237

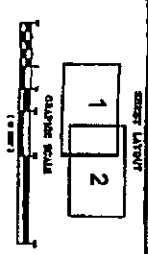
REEL 1973-9-APR 238



**THE PORT AUTHORITY OF NY & NJ**  
 Port Wyom Facilities  
 Staten Island, New York

**GENERAL NOTES:**  
 1. THE PORT AUTHORITY OF NY & NJ IS NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.  
 2. THE PORT AUTHORITY OF NY & NJ IS NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.

Boundary Survey of Blocks 1309, 1338 and 1400  
 Situate in Borough of Staten Island  
 County of Richmond, City and State of New York  
 Showing Sites 1, 2, 3 & 4 to be Addressed Under  
 NYSDEC's Voluntary Cleanup Program

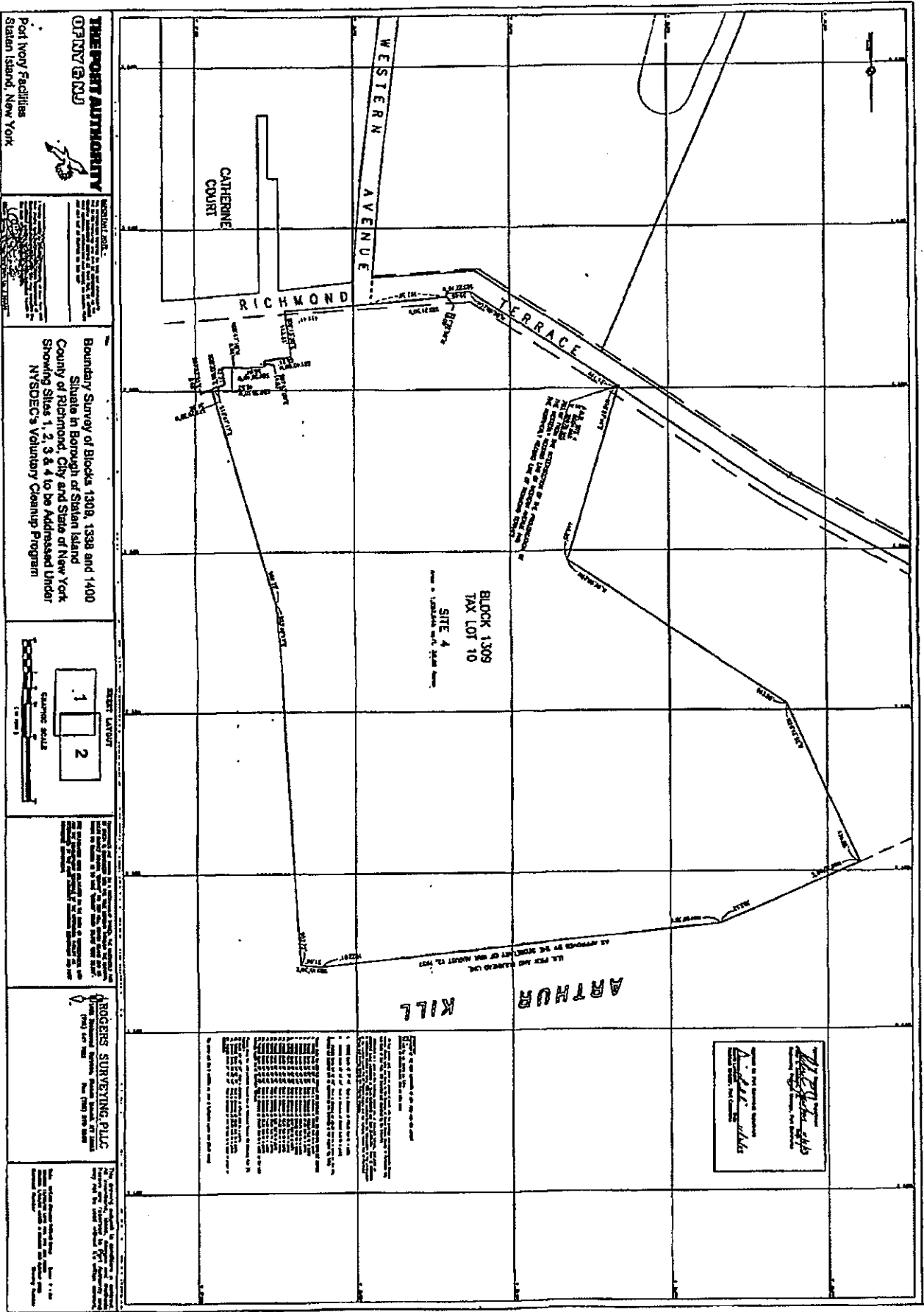


PROPERTY TO BE SURVEYED SHALL BE IDENTIFIED BY THE PORT AUTHORITY OF NY & NJ AS BEING THE PROPERTY OF THE PORT AUTHORITY OF NY & NJ.

**RODGERS SURVEYING, P.L.L.C.**  
 1000 ROUTE 90  
 STATEN ISLAND, NY 10314  
 (718) 426-1111

The Port Authority of NY & NJ is not responsible for the accuracy of the information contained herein.

REEL 973 646 1731



# Rogers Surveying, P.L.L.C.

1632 Richmond Terrace Staten Island, New York 10310 718-447-7311 Fax 718-273-3560

October 8, 2003


**DESCRIPTION**  
**PROPERTY OF THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY**  
**SITE 1**  
**TAX LOT No. 1, 300 & P/O 200 BLOCK No. 1400**  
**BOROUGH OF STATEN ISLAND, CITY OF NEW YORK**

All that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Borough of Staten Island, County of Richmond, City and State of New York, and bounded and described by the following;

BEGINNING at a point on the southerly record line of Richmond Terrace, said point of BEGINNING having coordinates of South 6,292.653 and West 38,273.828 and running thence from said point the following courses and distances;

1. South 30° 01' 25" West a distance of 778.11 feet to a point;
2. THENCE South 00° 02' 42" East a distance of 229.00 feet to a point;
3. THENCE South 16° 27' 29" West a distance of 729.56 feet to a point;
4. THENCE North 89° 30' 07" West a distance of 187.03 feet to a point;
5. THENCE North 00° 03' 45" West a distance of 668.28 feet to a point of curvature;
6. THENCE along a curve bearing to the right having a radius of 880.37 feet, a central angle of 24° 29' 20" for an arc length of 376.28 feet and a chord which bears North 12° 10' 55" East a distance of 373.42 feet to a non-tangent point;
7. THENCE North 24° 25' 35" East a distance of 845.44 feet to a point on the said southerly record line of Richmond Terrace;
8. THENCE along said southerly record line of Richmond Terrace South 57° 05' 36" East a distance of 376.82 feet to an angle point;
9. THENCE still along said southerly record line of Richmond Terrace North 86° 27' 20" East a distance of 38.90 feet to a point or place of BEGINNING.

The above said *Site 1* contains an area of 603,997 square feet (13.87 acres)

  
\_\_\_\_\_

WILLIAM SPIEZIA, L.S.

New York State Professional Land Surveyor # 050106

ca:\documents\legal\_desc\Proctor & Gamble Property\Site-1.doc

REEL 19739 PAGE 240

REEL 19739 PAGE 241

RICHMOND COUNTY CLERK  
RECORDING and ENDORSEMENT PAGE  
COUNTY OF RICHMOND  
This page forms part of the instrument

Total Number of pages in document  
INCLUDING this page: 8

Premises Western Ave (vacant)  
50 Western Avenue

RECORD & RETURN TO: Name The Port Authority of NY & NJ  
Address Low Dept. - 14th fl.  
City/State/Zip 225 Park Avenue South  
New York, NY 10003-1604  
Att: HARRY K. BARR, ESQ.

Title/Agent Company Name CTIC BLOCKING SECTION

Title Company File Number 3904-85014 Block 1400  
Lots(s) 1, 300 Partial Lot(s)

Describe Document(s) Notice of Agreement

Name & Address Party 1 The Port Authority of New York & New Jersey, 225 Park Ave S,  
NY, NY 10003  
Party 2 New York State Department of Environmental Conservation

COUNTY CLERK'S USE ONLY...Do Not Write Below This Line

Examined By: sm Date 12/21/04 Blocked: By: sm Date 12/21/04

Mfg. Amount \$ \_\_\_\_\_  
Mfg. Tax Collected \$ \_\_\_\_\_

Exemption Yes \_\_\_ No \_\_\_  
If yes: Type: [253] [255] Other \_\_\_\_\_

Verified By:  a. Address \_\_\_ b. Tax Map \_\_\_  
c. Legal Descr. \_\_\_ d. Blk/lot \_\_\_

Dwelling Type: [1to3] [4to6] [over 6]  
[Vacan/Commercial]

Recording Fee \$ 29 + 20

Affidavit Fee \$ \_\_\_\_\_  
Consideration \$ \_\_\_\_\_  
Lic. RPT Tax \$ \_\_\_\_\_

RETT Tax \$ JAN 14 2005

Recording Fees:  
a. Page Count 8 b. Extra Block(s) \_\_\_\_\_  
c. Extra Lots 1 d. Extra Mortgage Cited \_\_\_\_\_

RECORDED IN RICHMOND COUNTY

COUNTY CLERK

01/14/2005  
RECEIPT: 3927  
RICHMOND COUNTY CLERK  
12:28:52 P.M.  
FEE: \$49.00

DOCUMENT # 4912  
25-ASSIGN, AGREE, REL

RICHMOND COUNTY CLERK  
RECEIVED  
2004 OCT 14 A 10:22