

Abridged version, please refer to the complete document found in the document repository or at the NYSDEC Region 9 office

APPENDIX A

ENVIRONMENTAL EASEMENT



NIAGARA COUNTY CLERK
WAYNE F. JAGOW

RECEIPT

Receipt Date: 12/08/2015 11:31:35 AM
RECEIPT # 2015257492

Recording Clerk: TH
Cash Drawer: CASH2
Rec'd Frm: CRAIG SLATER ESQ
Rec'd In Person

Instr#: 2015-21593
DOC: EASEMENT
DEED STAMP: 2437
OR Party: MERANI HOSPITALITY INC
EE Party: PEOPLE OF THE STATE OF NEW
YORK

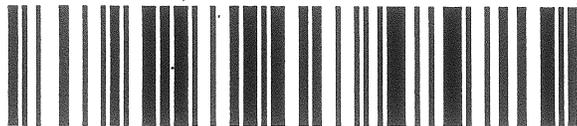
Recording Fees	
Cover Page	\$8.00
Recording Fee	\$32.00
Cultural Ed	\$14.25
Records Management - County	\$1.00
Records Management - State	\$4.75
TP584	\$5.00
Transfer Tax	
Transfer Tax	\$0.00
DOCUMENT TOTAL: ---->	\$65.00

Receipt Summary	
TOTAL RECEIPT: ---->	\$65.00
TOTAL RECEIVED: ---->	\$65.00
CASH BACK: ---->	\$0.00
PAYMENTS	
Credit Card ->	\$65.00



NIAGARA COUNTY – STATE OF NEW YORK
 WAYNE F. JAGOW – NIAGARA COUNTY CLERK
 P.O. BOX 461, LOCKPORT, NEW YORK 14095-0461

COUNTY CLERK'S RECORDING PAGE
 THIS PAGE IS PART OF THE DOCUMENT – DO NOT DETACH



INSTRUMENT #: 2015-21593

Receipt#: 2015257492
 Clerk: TH
 Rec Date: 12/08/2015 11:31:35 AM
 Doc Grp: DEED
 Descrip: EASEMENT
 Num Pgs: 10

Party1: MERANI HOSPITALITY INC
 Party2: PEOPLE OF THE STATE OF NEW YORK
 DEPARTMENT OF ENVIRONMENTAL
 CONSERVATION
 Town: NIAGARA FALLS

Recording:

Cover Page	8.00
Recording Fee	32.00
Cultural Ed	14.25
Records Management - Coun	1.00
Records Management - Stat	4.75
TP584	5.00

Sub Total: 65.00

Transfer Tax
 Transfer Tax 0.00

Sub Total: 0.00

Total: 65.00

**** NOTICE: THIS IS NOT A BILL ****

***** Transfer Tax *****
 Transfer Tax #: 2437
 Transfer Tax
 Consideration: 1.00

Total: 0.00

Record and Return To:

CRAIG SLATER ESQ
 500 SENECA STREET STE 504
 BUFFALO NY 14203

WARNING***

** Information may change during the verification process and may not be reflected on this page.

Wayne F. Jagow
 Niagara County Clerk

DEC 08 2015

WAYNE F. JAGOW
NIAGARA COUNTY CLERK

ENVIRONMENTAL EASEMENT GRANTED PURSUANT TO ARTICLE 71, TITLE 36
OF THE NEW YORK STATE ENVIRONMENTAL CONSERVATION LAW

THIS INDENTURE made this 30th day of November, 2015, between Owner(s) Merani Hospitality, Inc., having an office at 7001 Buffalo Avenue, Niagara Falls, NY 14304, County of Niagara, State of New York (the "Grantor"), and The People of the State of New York (the "Grantee."), acting through their Commissioner of the Department of Environmental Conservation (the "Commissioner", or "NYSDEC" or "Department" as the context requires) with its headquarters located at 625 Broadway, Albany, New York 12233,

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to encourage the remediation of abandoned and likely contaminated properties ("sites") that threaten the health and vitality of the communities they burden while at the same time ensuring the protection of public health and the environment; and

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to establish within the Department a statutory environmental remediation program that includes the use of Environmental Easements as an enforceable means of ensuring the performance of operation, maintenance, and/or monitoring requirements and the restriction of future uses of the land, when an environmental remediation project leaves residual contamination at levels that have been determined to be safe for a specific use, but not all uses, or which includes engineered structures that must be maintained or protected against damage to perform properly and be effective, or which requires groundwater use or soil management restrictions; and

WHEREAS, the Legislature of the State of New York has declared that Environmental Easement shall mean an interest in real property, created under and subject to the provisions of Article 71, Title 36 of the New York State Environmental Conservation Law ("ECL") which contains a use restriction and/or a prohibition on the use of land in a manner inconsistent with engineering controls which are intended to ensure the long term effectiveness of a site remedial program or eliminate potential exposure pathways to hazardous waste or petroleum; and

WHEREAS, Grantor, is the owner of real property located at the address of 430 Buffalo Avenue in the City of Niagara Falls, County of Niagara and State of New York, known and designated on the tax map of the County Clerk of Niagara as tax map parcel number: Section 159.54 Block 1 Lot 45, being the same as that property conveyed to Grantor by deed dated October 2, 2013 and recorded in the Niagara County Clerk's Office in Liber 2013 Page 19886. The property subject to this Environmental Easement (the "Controlled Property") comprises approximately 2.09 +/- acres, and is hereinafter more fully described on Sheet 1 of 2 as Parcel B in the Land Title Survey dated September 29, 2014 and revised on February 12, 2015 prepared by Jerod C. McIntyre, P.L.S. of McIntyre Land Surveying, P.C., which will be attached to the Site Management Plan. The Controlled Property description is set forth in and attached hereto as Schedule A; and

WHEREAS, the Department accepts this Environmental Easement in order to ensure the protection of public health and the environment and to achieve the requirements for remediation

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10 Pages
EASEMENT

established for the Controlled Property until such time as this Environmental Easement is extinguished pursuant to ECL Article 71, Title 36; and

NOW THEREFORE, in consideration of the mutual covenants contained herein and the terms and conditions of Brownfield Cleanup Agreement Index Number: C932164-05-14, Grantor conveys to Grantee a permanent Environmental Easement pursuant to ECL Article 71, Title 36 in, on, over, under, and upon the Controlled Property as more fully described herein ("Environmental Easement")

1. Purposes. Grantor and Grantee acknowledge that the Purposes of this Environmental Easement are: to convey to Grantee real property rights and interests that will run with the land in perpetuity in order to provide an effective and enforceable means of encouraging the reuse and redevelopment of this Controlled Property at a level that has been determined to be safe for a specific use while ensuring the performance of operation, maintenance, and/or monitoring requirements; and to ensure the restriction of future uses of the land that are inconsistent with the above-stated purpose.

2. Institutional and Engineering Controls. The controls and requirements listed in the Department approved Site Management Plan ("SMP") including any and all Department approved amendments to the SMP are incorporated into and made part of this Environmental Easement. These controls and requirements apply to the use of the Controlled Property, run with the land, are binding on the Grantor and the Grantor's successors and assigns, and are enforceable in law or equity against any owner of the Controlled Property, any lessees and any person using the Controlled Property.

A. (1) The Controlled Property may be used for:

**Restricted Residential as described in 6 NYCRR Part 375-1.8(g)(2)(ii),
Commercial as described in 6 NYCRR Part 375-1.8(g)(2)(iii) and Industrial
as described in 6 NYCRR Part 375-1.8(g)(2)(iv)**

(2) All Engineering Controls must be operated and maintained as specified in the Site Management Plan (SMP);

(3) All Engineering Controls must be inspected at a frequency and in a manner defined in the SMP;

(4) The use of groundwater underlying the property is prohibited without necessary water quality treatment as determined by the NYSDOH or the Niagara County Department of Health to render it safe for use as drinking water or for industrial purposes, and the user must first notify and obtain written approval to do so from the Department;

(5) Groundwater and other environmental or public health monitoring must be performed as defined in the SMP;

(6) Data and information pertinent to Site Management of the Controlled Property must be reported at the frequency and in a manner defined in the SMP;

(7) All future activities on the property that will disturb remaining contaminated material must be conducted in accordance with the SMP;

(8) Monitoring to assess the performance and effectiveness of the remedy must be performed as defined in the SMP;

(9) Operation, maintenance, monitoring, inspection, and reporting of any mechanical or physical components of the remedy shall be performed as defined in the SMP;

(10) Access to the site must be provided to agents, employees or other representatives of the State of New York with reasonable prior notice to the property owner to assure compliance with the restrictions identified by this Environmental Easement.

B. The Controlled Property shall not be used for Residential purposes as defined in 6NYCRR 375-1.8(g)(2)(i), and the above-stated engineering controls may not be discontinued without an amendment or extinguishment of this Environmental Easement.

C. The SMP describes obligations that the Grantor assumes on behalf of Grantor, its successors and assigns. The Grantor's assumption of the obligations contained in the SMP which may include sampling, monitoring, and/or operating a treatment system, and providing certified reports to the NYSDEC, is and remains a fundamental element of the Department's determination that the Controlled Property is safe for a specific use, but not all uses. The SMP may be modified in accordance with the Department's statutory and regulatory authority. The Grantor and all successors and assigns, assume the burden of complying with the SMP and obtaining an up-to-date version of the SMP from:

Site Control Section
Division of Environmental Remediation
NYSDEC
625 Broadway
Albany, New York 12233
Phone: (518) 402-9553

D. Grantor must provide all persons who acquire any interest in the Controlled Property a true and complete copy of the SMP that the Department approves for the Controlled Property and all Department-approved amendments to that SMP.

E. Grantor covenants and agrees that until such time as the Environmental Easement is extinguished in accordance with the requirements of ECL Article 71, Title 36 of the ECL, the property deed and all subsequent instruments of conveyance relating to the Controlled Property shall state in at least fifteen-point bold-faced type:

This property is subject to an Environmental Easement held by the New York State Department of Environmental Conservation

pursuant to Title 36 of Article 71 of the Environmental Conservation Law.

F. Grantor covenants and agrees that this Environmental Easement shall be incorporated in full or by reference in any leases, licenses, or other instruments granting a right to use the Controlled Property.

G. Grantor covenants and agrees that it shall, at such time as NYSDEC may require, submit to NYSDEC a written statement by an expert the NYSDEC may find acceptable certifying under penalty of perjury, in such form and manner as the Department may require, that:

(1) the inspection of the site to confirm the effectiveness of the institutional and engineering controls required by the remedial program was performed under the direction of the individual set forth at 6 NYCRR Part 375-1.8(h)(3).

(2) the institutional controls and/or engineering controls employed at such site:
(i) are in-place;
(ii) are unchanged from the previous certification, or that any identified changes to the controls employed were approved by the NYSDEC and that all controls are in the Department-approved format; and

(iii) that nothing has occurred that would impair the ability of such control to protect the public health and environment;

(3) the owner will continue to allow access to such real property to evaluate the continued maintenance of such controls;

(4) nothing has occurred that would constitute a violation or failure to comply with any site management plan for such controls;

(5) the report and all attachments were prepared under the direction of, and reviewed by, the party making the certification;

(6) to the best of his/her knowledge and belief, the work and conclusions described in this certification are in accordance with the requirements of the site remedial program, and generally accepted engineering practices; and

(7) the information presented is accurate and complete.

3. Right to Enter and Inspect. Grantee, its agents, employees, or other representatives of the State may enter and inspect the Controlled Property in a reasonable manner and at reasonable times to assure compliance with the above-stated restrictions.

4. Reserved Grantor's Rights. Grantor reserves for itself, its assigns, representatives, and successors in interest with respect to the Property, all rights as fee owner of the Property, including:

A. Use of the Controlled Property for all purposes not inconsistent with, or limited by the terms of this Environmental Easement;

B. The right to give, sell, assign, or otherwise transfer part or all of the underlying fee interest to the Controlled Property, subject and subordinate to this Environmental Easement;

communicating notices and responses to requests for approval.

7. Recordation. Grantor shall record this instrument, within thirty (30) days of execution of this instrument by the Commissioner or her/his authorized representative in the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

8. Amendment. Any amendment to this Environmental Easement may only be executed by the Commissioner of the New York State Department of Environmental Conservation or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

9. Extinguishment. This Environmental Easement may be extinguished only by a release by the Commissioner of the New York State Department of Environmental Conservation, or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

10. Joint Obligation. If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.

Remainder of Page Intentionally Left Blank

IN WITNESS WHEREOF, Grantor has caused this instrument to be signed in its name.

Merani Hospitality, Inc.:

By: [Signature]

Print Name: FAISAL MERANI

Title: PRESIDENT Date: 11/13/15

Grantor's Acknowledgment

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

On the 13th day of NOVEMBER in the year 2015, before me, the undersigned, personally appeared FAISAL MERANI, 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.

[Signature]
Notary Public - State of New York

LUCY R. MUTO
Lic. #01MU4989102
Notary Public-State of New York
Qualified in Niagara County
My Commission Expires 12/02/2015
17

THIS ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY THE PEOPLE OF THE STATE OF NEW YORK, Acting By and Through the Department of Environmental Conservation as Designee of the Commissioner,

By: 
Robert W. Schick, Director
Division of Environmental Remediation

Grantee's Acknowledgment

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

On the 30th day of November, in the year 20 , before me, the undersigned, personally appeared Robert W. Schick, 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/ executed the same in his/her/ capacity as Designee of the Commissioner of the State of New York Department of Environmental Conservation, and that by his/her/ signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.


Notary Public - State of New York

**PATRICK EUGENE FOSTER
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN KINGS COUNTY
NO. 02FO6278032
COMMISSION EXPIRES 03/18/2017**

SCHEDULE "A" PROPERTY DESCRIPTION

430 Buffalo Avenue (SBL # 159.54-1-45)

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Niagara Falls, County of Niagara and State of New York, being part of Lot No. 43 & 44 of the New York Mile Reserve and also described as Subdivision Lots 42,44,46,48,50,52,54 and the easterly ½ of Subdivision Lot 40 on the northerly side of Buffalo Avenue (formerly Buffalo Street) as shown on a map by Jesse P. Haines, Surveyor dated 1861 and filed in the Niagara County Clerk's Office on December 20, 1861 under cover no. 389, now in book 5 of Microfilmed maps at pages 462 & 463, bounded and more particularly described as follows:

BEGINNING at the point of intersection of the northerly line of Buffalo Avenue and the westerly line of Sixth Street; running thence westerly along the said northerly line of Buffalo Avenue, a distance of 529.70 feet to a point; running thence northerly and parallel with the said westerly line of Sixth Street, a distance of 172.03 feet to a point along the southerly line of a 13.06 foot wide city alleyway; running thence easterly along said southerly line of city alleyway and being parallel with the northerly line of said Buffalo avenue, a distance of 529.70 feet to a point along the westerly line of said Sixth Street; running thence southerly along the said westerly line of Sixth Street, a distance of 172.03 feet to the point or place of beginning. Having an area of 91,121.39 square feet or 2.09 acres more or less.



LEGAL DESCRIPTION OF RECORD

EXHIBIT A

EXHIBIT B

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Niagara Falls, County of Niagara and State of New York, being part of Lots Nos. 42, 44, 46, 48, 50, 52 and 54 of Subdivision Lot No. 40 and all of Subdivision Lots 42, 44, 46, 48, 50, 52 & 54 on the northern side of Buffalo Avenue (formerly Buffalo Street) as shown on a map by Jesse P. Haines, Surveyor dated 1861 and filed in the Niagara County Clerk's Office on December 20, 1861 under cover no. 389, now in Book 5 of Microfilmed maps at pages 462 & 463, bounded and more particularly described as follows:

COMMENCING at a point on the northern line of Buffalo Avenue, 99.0 feet easterly from its intersection with the easterly line of Fourth Street; running thence northerly at an interior angle of 89°-32', a distance of 172.03 feet to a point on the south line of a City of Niagara Falls alleyway; running thence easterly at an interior angle of 90°-28', a distance of 529.70 feet to the intersection of the westerly line of Sixth Street and the southerly line of said alleyway; running thence southerly at an interior angle of 89°-32' along the west line of Sixth Street, a distance of 172.03 feet to the northern line of Buffalo Avenue; running thence westerly at an interior angle of 90°-28' along the northern line of Buffalo Avenue a distance of 529.70 feet to the point or place of beginning.

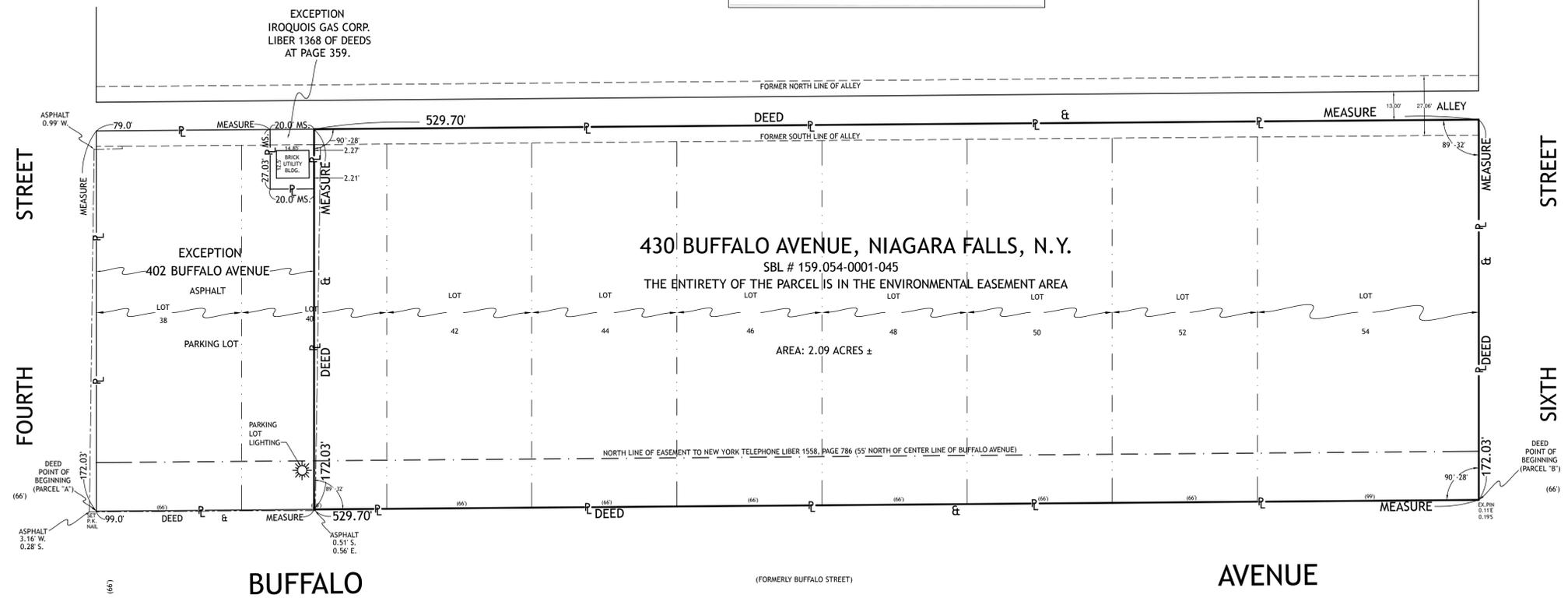
ENVIRONMENTAL EASEMENT AREA DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Niagara Falls, County of Niagara and State of New York, being part of Lot No. 43 of the New York Mile Reserve and also described as the easterly one half of Subdivision Lot No. 40 and all of Subdivision Lots 42, 44, 46, 48, 50, 52 & 54 on the northern side of Buffalo Avenue (formerly Buffalo Street) as shown on a map by Jesse P. Haines, Surveyor dated 1861 and filed in the Niagara County Clerk's Office on December 20, 1861 under cover no. 389, now in Book 5 of Microfilmed maps at pages 462 & 463, bounded and more particularly described as follows:

COMMENCING at a point on the northern line of Buffalo Avenue, 99.0 feet easterly from its intersection with the easterly line of Fourth Street; running thence northerly at an interior angle of 89°-32', a distance of 172.03 feet to a point on the south line of a City of Niagara Falls alleyway; running thence easterly at an interior angle of 90°-28', a distance of 529.70 feet to the intersection of the westerly line of Sixth Street and the southerly line of said alleyway; running thence southerly at an interior angle of 89°-32' along the west line of Sixth Street, a distance of 172.03 feet to the northern line of Buffalo Avenue; running thence westerly at an interior angle of 90°-28' along the northern line of Buffalo Avenue a distance of 529.70 feet to the point or place of beginning.

Area: 91,116.46 square feet
Or
2.09 Acres ±

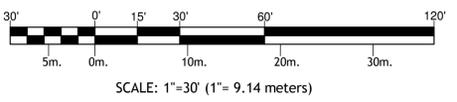
NYSDEC CERTIFICATION (BROWNFIELD SITE CLEANUP AGREEMENT INDEX NO. C932164-05-14): THIS PROPERTY IS SUBJECT TO AN ENVIRONMENTAL EASEMENT HELD BY THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION PURSUANT TO TITLE 36 OF ARTICLE 71 OF THE NEW YORK ENVIRONMENTAL CONSERVATION LAW. THE ENGINEERING AND INSTITUTIONAL CONTROLS FOR THIS EASEMENT ARE SET FORTH IN MORE DETAIL IN THE SITE MANAGEMENT PLAN (SMP). A COPY OF THE SMP CAN BE OBTAINED BY ANY PARTY WITH AN INTEREST IN THE PROPERTY. THE SMP CAN BE OBTAINED FROM NYS DEPARTMENT OF ENVIRONMENTAL CONSERVATION, DIVISION OF ENVIRONMENTAL REMEDIATION, SITE CONTROL SECTION, 625 BROADWAY, ALBANY, NY 12233 OR AT DERWEB@DEC.NY.GOV.



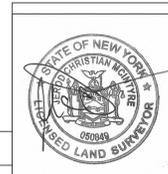
I HEREBY CERTIFY TO:
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION
THAT THIS SURVEY WAS PREPARED IN ACCORDANCE WITH THE CURRENT CODE OF PRACTICE FOR LAND SURVEYS ADOPTED BY THE NEW YORK STATE ASSOCIATION OF PROFESSIONAL LAND SURVEYORS AND AS AMENDED BY THE NIAGARA FRONTIER LAND SURVEYORS ASSOCIATION OF ERIE COUNTY.
THIS CERTIFICATION DOES NOT EXTEND TO SUBSEQUENT OWNERS, MORTGAGES OR TITLE INSURERS UNLESS THIS SURVEY HAS BEEN RESURVEYED FOR THIS PURPOSE BY THE LAND SURVEYOR.

MAP LEGEND

ASPHALT	
PARKING LOT LIGHTING	
PROPERTY BOUNDARY	
SUBDIVISION LOT LINE	
UTILITY EASEMENT BOUNDARY	
FORMER ALLEYWAY BOUNDARY	
EDGE OF ASPHALT	



MAP REFERENCE
MAP BY JESSE P. HAINES, SURVEYOR, 1861,
FILED IN THE N.C.C.O. ON DECEMBER 20, 1861,
UNDER COVER 389, NOW IN BOOK 5 OF MICROFILMED
MAPS AT PAGES 462 & 463.



SHEET 1 OF 2

SURVEY OF EAST 1/2 OF SUBDIVISION LOT 40 AND SUBDIVISION LOTS 42, 44, 46, 48, 50, 52 & 54 ON THE NORTH-SIDE OF BUFFALO AVENUE, CITY OF NIAGARA FALLS, COUNTY OF NIAGARA AND STATE OF NEW YORK. PART OF LOTS 43 & 44 OF THE NEW YORK MILE RESERVE.

PHONE (716) 284-2062 JEROD C. Mc INTYRE, LAND SURVEYOR FAX (716) 284-5581
729 MAIN STREET, NIAGARA FALLS, NEW YORK 14301

DATE FIELD WORK COMPLETED: SEPTEMBER 13, 2013 JOB NO. 2013-233
REV: FEBRUARY 12, 2015 (NYDEC ENV. EASEMENT)
REV: NOVEMBER 9, 2015 (OMITTED 402 BUFFALO AVE) DRAWING NO. 3045-13

NOTE: IT IS A VIOLATION OF SECTION 7209, SUBDIVISION 2 OF THE NEW YORK STATE EDUCATION LAW FOR ANY PERSON UNLESS ACTING UNDER THE DIRECTION OF A LICENSED PROFESSIONAL ENGINEER OR LAND SURVEYOR, TO ALTER, IN ANY WAY, ANY PLANS, SPECIFICATIONS, PLATS OR REPORTS TO WHICH THE SEAL OF A PROFESSIONAL ENGINEER OR LAND SURVEYOR HAS BEEN APPLIED.
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