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

THIS INDENTURE made this 25th day of July, 2012 between Owner(s) Ameron International Corporation, having an office at 245 Los Robles Avenue, County of Los Angeles, State of California ("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") 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 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 119 Colgate Avenue in the City of Buffalo, County of Erie and State of New York, known and designated on the tax map of the County Clerk of Erie as tax map parcel numbers: SBL 133.62-2-1.11 being the same as that property conveyed to Grantor by deeds dated June 26, 1944 and April 26, 1946 and recorded in the Erie County Clerk's Office in Liber 3557, Page 382 and Liber 3882, Page 20, respectively, comprising approximately 1.953 acres, and hereinafter more fully described in the Land Title Survey dated October 25, 2010 prepared by Millard, MacKay & Delles, which will be attached to the Site Management Plan. The property description (the "Controlled Property") 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 human health and the environment and to achieve the requirements for remediation 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 Order on Consent Number: 915133, 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:

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

(5) 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;

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

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

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

(9) 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 or Restricted Residential, 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:

Regional Remediation Engineer
NYSDEC – Region 9
Division of Environmental Remediation
270 Michigan Avenue
Buffalo, New York 14202
Phone: (716)-851-7000

or

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 annually, or such time as NYSDEC may allow, 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;

5. Enforcement

A. This Environmental Easement is enforceable in law or equity in perpetuity by

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.

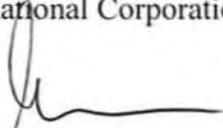
8. Amendment. Any amendment to this Environmental Easement may only be executed by the Commissioner of the New York State Department of Environmental Conservation or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated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

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

Ameron International Corporation

By(1):  _____

Print Name: Gary Wagner

Title: Senior Vice President Date: 7/19/11

By(2):  _____

Print Name: Leonard J. McGill

Title: Secretary Date: 7/19/11

SCHEDULE "A" PROPERTY DESCRIPTION

PARCEL "A"

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, known as lots numbers 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39 and 40, inclusive, in Block "F", as laid out and described on a certain map showing subdivision of part of the Howard Estate Lands in Lot 45, Township 10, Range 8, made by Dennison Fairchild, C.E., November 13, 1906 and filed in the Erie County Clerk's Office under Cover No. 782, more particularly described as follows:

COMMENCING at the point of intersection of the south line of Colgate Avenue with the east line of subdivision lot number 40 aforesaid, which point of commencement is 1049 feet westerly from the westerly line of South Park Avenue; running thence southerly along the easterly line of Subdivision Lot number 40 and substantially at right angles to Colgate Avenue 112 feet to the southerly line of Lot 45; thence westerly and along the southerly line of Lot 45, 666 feet to the easterly line of Subdivision lot number 18; thence northerly along the easterly line of Subdivision lot number 18, 112 feet to the south line of Colgate Avenue; thence easterly and along the south line of Colgate Avenue 666 feet to the point or place of beginning.

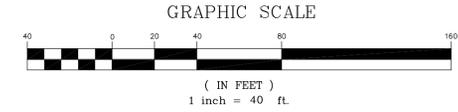
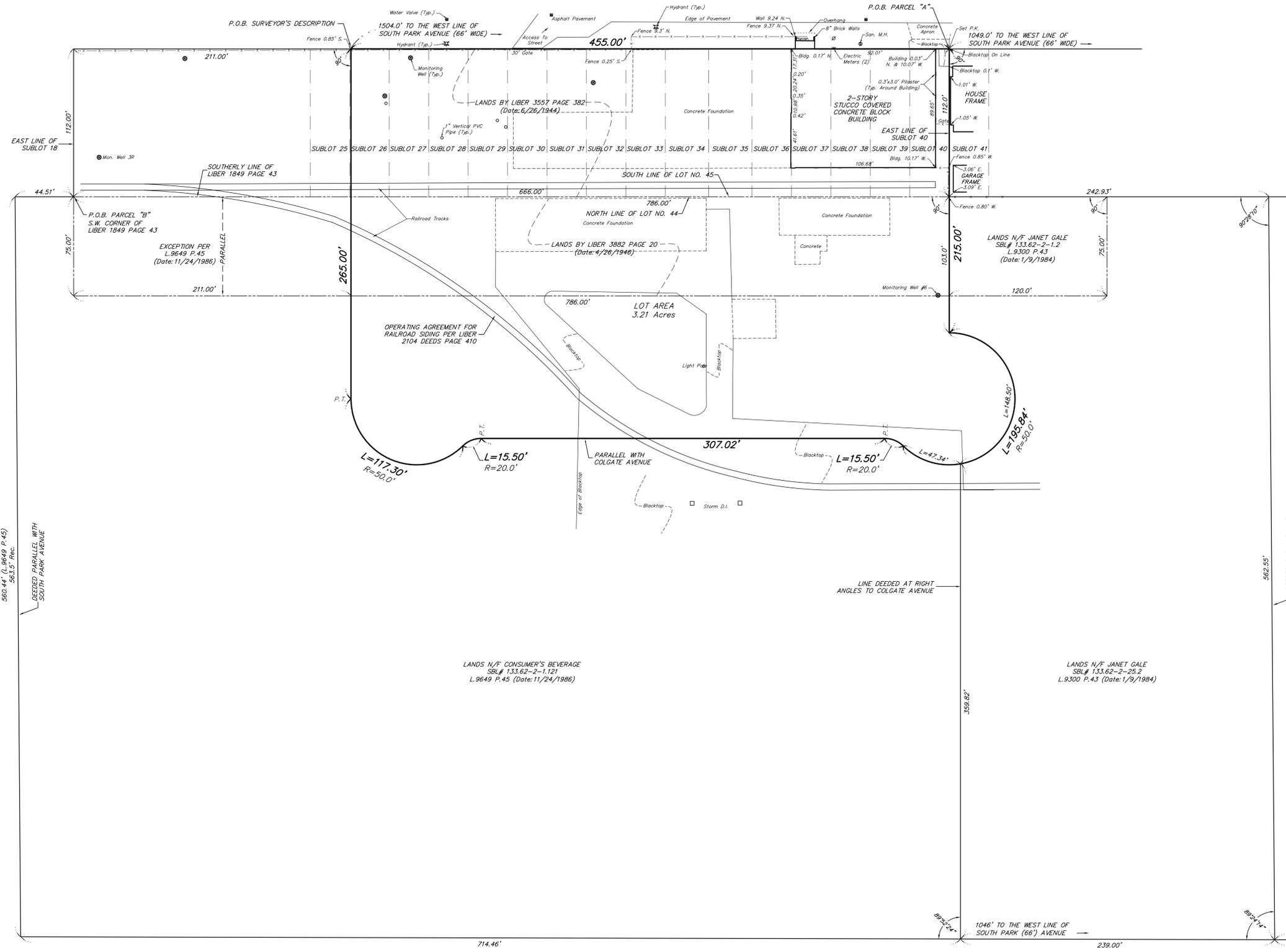
PARCEL "B"

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, being part of Lot No. 44, Township 10, Range 8 of the Buffalo Creek Reservation more particularly described as follows:

BEGINNING at the southwest corner of the land conveyed to the Consolidated Battery Company, Inc., by Armin W. Brand and Francis E. Stevens as and composing the copartnership known and doing business under the name of Brand and Stevens, by deed dated July 15, 1925, and recorded in the office of the Erie County Clerk in Liber 1849 of Deeds at page 43 on July 27, 1925; thence easterly along the southerly line and said southerly line extended of the lands so conveyed to the Consolidated Battery Company Inc. 786 feet; thence southerly at right angles to the said southerly line and said southerly line extended of the lands so conveyed to the Consolidated Battery Co. Inc. 75 feet; thence westerly along a line parallel to the said southerly line and said southerly line extended of the lands so conveyed to the Consolidated Battery Co. Inc and distant 75 feet southerly therefrom 786 feet; thence northerly 75 feet to the place of beginning.

EXCEPTING THEREFROM that part conveyed by deed recorded in the Erie County Clerk's Office in Liber 9049 of Deeds at page 45.

COLGATE (66' WIDE) AVENUE
(PUBLIC STREET)



LEGAL DESCRIPTION
PER CHICAGO TITLE INSURANCE COMPANY COMMITMENT #5009-25131
EFFECTIVE DATE: March 10, 2012

Parcel A (119 Colgate)
ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, known as lots numbers 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39 and 40, inclusive, in Block "F", as laid out and described on a certain map showing subdivision of part of the Howard Estate Lands in Lot 45, Township 10, Range 8, made by Denison Fairchild, C.E., November 13, 1906 and filed in the Erie County Clerk's Office under Cover No. 292, more particularly described as follows:
COMMENCING at the point of intersection of the south line of Colgate Avenue with the east line of subdivision lot number 40 aforesaid, which point of commencement is 1049 feet westerly from the westerly line of South Park Avenue; running thence southerly along the easterly line of Subdivision Lot number 40 and substantially at right angles to Colgate Avenue 112 feet to the southerly line of Lot 45; thence westerly and along the southerly line of Lot 45, 666 feet to the easterly line of Subdivision lot number 18; thence northerly along the easterly line of Subdivision lot number 18, 112 feet to the south line of Colgate Avenue; thence easterly and along the south line of Colgate Avenue 666 feet to the point or place of beginning.

Parcel B (113 Colgate)
ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, being part of Lot No. 44, Township 10, Range 8 of the Buffalo Creek Reservation, and being more particularly described as follows:
BEGINNING at the southwest corner of the land conveyed to the Consolidated Battery Company, Inc. by Armin W. Brand and Francis E. Stevens as and composing the copartnership known and doing business under the name of Brand and Stevens, by deed dated July 15, 1925, and recorded in the office of the Erie County Clerk in Liber 1849 of Deeds at page 43 on July 27, 1925; thence easterly along the southerly line and said southerly line extended of the lands so conveyed to the Consolidated Battery Company, Inc. 796 feet; thence southerly at right angles to the said southerly line and said southerly line extended of the lands so conveyed to the Consolidated Battery Co. Inc. 75 feet; thence westerly along a line parallel to the said southerly line and said southerly line extended of the lands so conveyed to the Consolidated Battery Co. Inc. and distant 75 feet southerly therefrom 796 feet; thence northerly 75 feet to the place of beginning.
EXCEPTING THEREFROM that part conveyed by deed recorded in the Erie County Clerk's Office in Liber 9649 of Deeds at page 45.

Parcel C (113 Colgate)
ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Buffalo, County of Erie and State of New York, being part of Lot No. 44, Township 10, Range 8 of the Buffalo Creek Reservation, and being more particularly described as follows:
BEGINNING at a point in the northerly line of Okell Street, distance 307 feet west of the westerly line of South Park Avenue; running thence northerly parallel with said South Park Avenue, 562.5 feet to a point in the north line of Lot No. 44; running thence westerly along said north line of Lot No. 44, 1453.48 feet to a point in a line drawn parallel with the aforementioned South Park Avenue; running thence southerly, 562.5 feet on a line drawn parallel with South Park Avenue to Okell Street; running thence easterly along the north line of Okell Street 1453.48 feet to the point or place of beginning.
EXCEPTING THEREFROM lands conveyed by deed recorded in the Erie County Clerk's Office in Liber 9300 of Deeds at page 43.
ALSO EXCEPTING THEREFROM lands conveyed by deed recorded in the Erie County Clerk's Office in Liber 9649 of Deeds at page 45.
This parcel intending to contain 3.21 Acres more or less.

EASEMENTS / AGREEMENTS
PER SCHEDULE "B" CHICAGO TITLE INSURANCE COMPANY COMMITMENT #5009-25131

5. Agreement for railroad side track made by Consolidated Battery Company Inc. with Wilkeson-Harding Inc. dated September 10, 1930 and recorded September 10, 1930 in Liber 2104 of Deeds at page 410.

SURVEYOR'S LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND, Situate in the City of Buffalo, County of Erie and State of New York, being part of Lots 44 and 45, Township 10, Range 8 of Buffalo Creek Reservation and more particularly bounded and described as follows:
Beginning at a point in the south line of Colgate Avenue 1504.0 feet west of the intersection of the south line of Colgate Avenue and west line of South Park Avenue; thence southerly at right angles to Colgate Avenue 265.0 feet; thence southeast on a curve to the left tangent to the last described line and having a radius of 50 feet an arc length of 117.30 feet; thence on a reverse curve to the right having a radius of 20.0 feet on an arc length of 15.50 feet; thence east on a line tangent to the last described curve and parallel with Colgate Avenue 307.02 feet; thence on a curve to the right tangent to the last described course having a radius of 20.0 feet on an arc length of 15.50 feet; thence on a reverse curve to the left, having a radius of 50.0 feet an arc length of 153.84 feet to a point; thence northerly along a line at right angles to Colgate Avenue a distance of 215.00 feet to a point on the south line of said Colgate Avenue; thence west and along the said south line of Colgate Avenue, a distance of 455.00 feet to the point or place of beginning.

ENVIRONMENTAL EASEMENT AREA DESCRIPTION

DEC Site number 915133
SAME AS THE SURVEYOR'S LEGAL DESCRIPTION
This parcel intending to contain 3.21 Acres more or less.

THE ENGINEERING AND INSTUTIONAL CONTROLS FOR THIS EASEMENT ARE SET FORTH IN THE SITE MANAGEMENT PLAN (SMP). A COPY OF THE SMP MUST 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 CONSERVATION, DIVISION OF ENVIRONMENTAL REMEDIATION, SITE CONTROL SECTION, 625 BROADWAY, ALBANY, N.Y. 12233 OR AT derweb@gw.dec.state.ny.us

OKELL (60' WIDE) STREET
(PUBLIC STREET)

LEGEND

⊗ UTILITY / SERVICE POLE	R.O.W. RIGHT OF WAY
⊗ WATER LINE VALVE	CONC. CONCRETE
⊗ FIRE HYDRANT	INV. INVERT
⊗ D.I. (DROP INLET - STORM)	M.H. MANHOLE
⊗ MANHOLE (STORM)	—G— GAS LINE
⊗ MANHOLE (ELECTRIC)	—W— WATER LINE
⊗ MANHOLE (TRAFFIC)	—T— TELEPHONE LINE
⊗ MANHOLE (SANITARY)	—E— ELECTRIC LINE
⊗ LDR (LIGHT DUTY RECEIVER - STORM)	—U— UTILITY LINES
⊗ BYD (BACKYARD DRAIN INLET - STORM)	—C— CABLE LINES
⊗ GAS LINE VALVE	D. DEED
⊗ LIGHT STANDARD	M. MEASURED
—S— SIGN	L. LIBER
H.C. HANDICAP	P. PAGE

INSTRUMENTS UTILIZED IN DETERMINING LOCATION OF BOUNDARY LINES: HEAD OF SEARCH
THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT ABSTRACT OF TITLE AND IS SUBJECT TO ANY STATE OF FACTS THAT MAY BE REVEALED IN SAID ABSTRACT

I HEREBY CERTIFY TO the People of the State of New York that through its Commission of the Department of Environmental Conservation and to the Chicago Title Insurance Company that this SURVEY MAP WAS PREPARED IN ACCORDANCE WITH THE CURRENT STANDARD FOR LAND SURVEYS ADOPTED BY THE ERIE COUNTY BAR ASSOCIATION. THIS CERTIFICATION SHALL EXTEND ONLY TO THE ENTITIES LISTED HEREON AND TO THE SUCCESSORS AND/OR ASSIGNEES OF THE LISTED INSTITUTION. THIS CERTIFICATION IS NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUCCESSORS OTHER THAN STATED ABOVE.

Millard, MacKay & Delles
LAND SURVEYORS, LLP
150 AERO DRIVE
BUFFALO, NEW YORK 14225
PHONE (716) 631-5140 ~ FAX 631-3811

AMEND: 3-27-12 PER NEW TITLE REPORT
AMEND: 1-31-12 PER COMMENTS

Millard, MacKay & Delles
LAND SURVEYORS, LLP
150 AERO DRIVE
BUFFALO, NEW YORK 14225
PHONE (716) 631-5140 ~ FAX 631-3811

THIS MAP VOID UNLESS EMBOSSED WITH NEW YORK STATE LICENSED LAND SURVEYOR'S SEAL. ALTERING ANY ITEM ON THIS MAP IS A VIOLATION OF THE LAW EXCEPT AS PROVIDED IN SECTION 7209, PART 2 OF THE NEW YORK STATE EDUCATION LAW.

SUBLOTS 26 THROUGH 40 INCLUSIVE, BLOCK "F" ~
MAP COVER 782 AND MORE

PART OF LOT 44&45 SECTION _____ TOWNSHIP 10 RANGE 8 OF THE:
Buffalo Creek Reservation SURVEY - Erie COUNTY, N.Y.

SURVEY OF: 113 & 119 Colgate Avenue, City of Buffalo

SBL No. 133.62-2-1.11&25.11