

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

THIS INDENTURE made this 31st day of October, 2013 between Owner(s) City of Yonkers, a municipal corporation, having an office at 40 South Broadway, Yonkers, NY 10701, (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 310 Sawmill River Road in the City of Yonkers, County of Westchester and State of New York, known and designated on the tax map of the County Clerk of Westchester as tax map parcel numbers: Section 2 Block 2359 Lot 11 & 13, being the same as that property conveyed to Grantor by deed dated December 21, 2011 and recorded in the Westchester County Clerk's Office on January 1, 2012 as Control Number 513553457. The property subject to this Environmental Easement (the "Controlled Property") comprises approximately 0.395 +/- acres, and is hereinafter more fully described in the Land Title Survey dated April 23, 2004 and last revised on September 14, 2012 prepared by Aristotle Bournazos, P.C., which will be attached to the Site Management Plan. The Controlled Property description and survey 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 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 State Assistance Contract Number: C302295 with Amendment, No(s) 1 and 2, 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) 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 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 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:

[6/11]

- (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 Grantor, Grantee, or any affected local government, as defined in ECL Section 71-3603, against the owner of the Property, any lessees, and any person using the land. Enforcement shall not be defeated because of any subsequent adverse possession, laches, estoppel, or waiver. It is not a defense in any action to enforce this Environmental Easement that: it is not appurtenant to an interest in real property; it is not of a character that has been recognized traditionally at common law; it imposes a negative burden; it imposes affirmative obligations upon the owner of any interest in the burdened property; the benefit does not touch or concern real property; there is no privity of estate or of contract; or it imposes an unreasonable restraint on alienation.

B. If any person violates this Environmental Easement, the Grantee may revoke the Certificate of Completion with respect to the Controlled Property.

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.

Grantor: CITY OF YONKERS

By: 

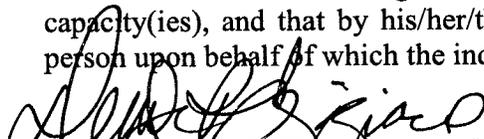
Print Name: Susan Gerry

Title: Deputy Mayor Date: 8/22/13

Grantor's Acknowledgment

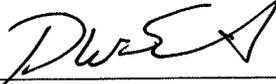
STATE OF NEW YORK)
COUNTY OF Westchester) ss:

On the 22nd day of August, in the year 20 13, before me, the undersigned, personally appeared Susan Gerry, 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.


Notary Public - State of New York

RECEIVED
City of Yonkers, State of New York
August 22, 2013
15

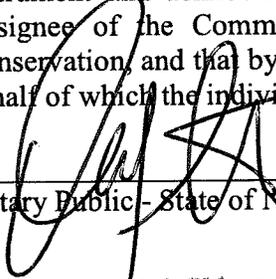
THIS ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY THE PEOPLE OF THE STATE OF NEW YORK, Acting By and Through the Department of Environmental Conservation as Designee of the Commissioner.

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

Grantee's Acknowledgment

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

On the 31st day of October, in the year 2013, 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

David J. Chiusano
Notary Public, State of New York
No. 01CH5032146
Qualified in Schenectady County
Commission Expires August 22, 2014

SCHEDULE "A" PROPERTY DESCRIPTION

Property Address: 310 Sawmill River Road, Yonkers, NY County of Westchester, City of Yonkers
Tax Map: Section: 2 Block 2359 Lot(s) 11 and 13

DESCRIPTION FOR ENVIRONMENTAL EASEMENT

ALL that certain plot, piece or parcel of land situate, lying and being in the City of Yonkers, County of Westchester, and State of New York, being known and designated as Parcels 1 and 2 as shown on a certain Map entitled "Yonkers Parking Authority, Acq Map, Block 2359, Lots 11 & 13", and filed in the Westchester County Clerk's Office, Division of Land Records on June 1, 2001 as Map No. 26797, and being more particularly bounded and described as follows:

BEGINNING at the intersection of the easterly line of Saw Mill River Road (66' ROW) with the southerly line of Lockwood Avenue (60' ROW);

THENCE easterly along the southerly line of Lockwood Avenue North 67 degrees 27 minutes 10 seconds East 106.91 feet;

THENCE southeasterly along the westerly property line of Block 2359 Lot 17 (N/F S.B. and S. Neme) South 22 degrees 32 minutes 50 seconds East 44.00 feet (44.01' per filed Map No. 26797) to southerly property line of Block 2359, Lot 17;

THENCE easterly along said southerly property line of Lot 17 South 69 degrees 34 minutes 30 seconds East 13.40 feet to the westerly property line of Block 2359, Lot 1 (N/F S.B. and S. Neme);

THENCE southerly along said westerly property line of Block 2359, Lot 1 and westerly property line of Block 2359, Lots 2, 3 and 4 (N/F R. Ciufetelli) South 20 degrees 25 minutes 30 seconds West 100.00 feet to southerly property line of Block 2359, Lot 4;

THENCE easterly along said property line of Block 2359, Lot 4 South 69 degrees 34 minutes 30 seconds East 6.00 feet to westerly line of Block 2359, Lot 5 (N/F R. Ciufetelli);

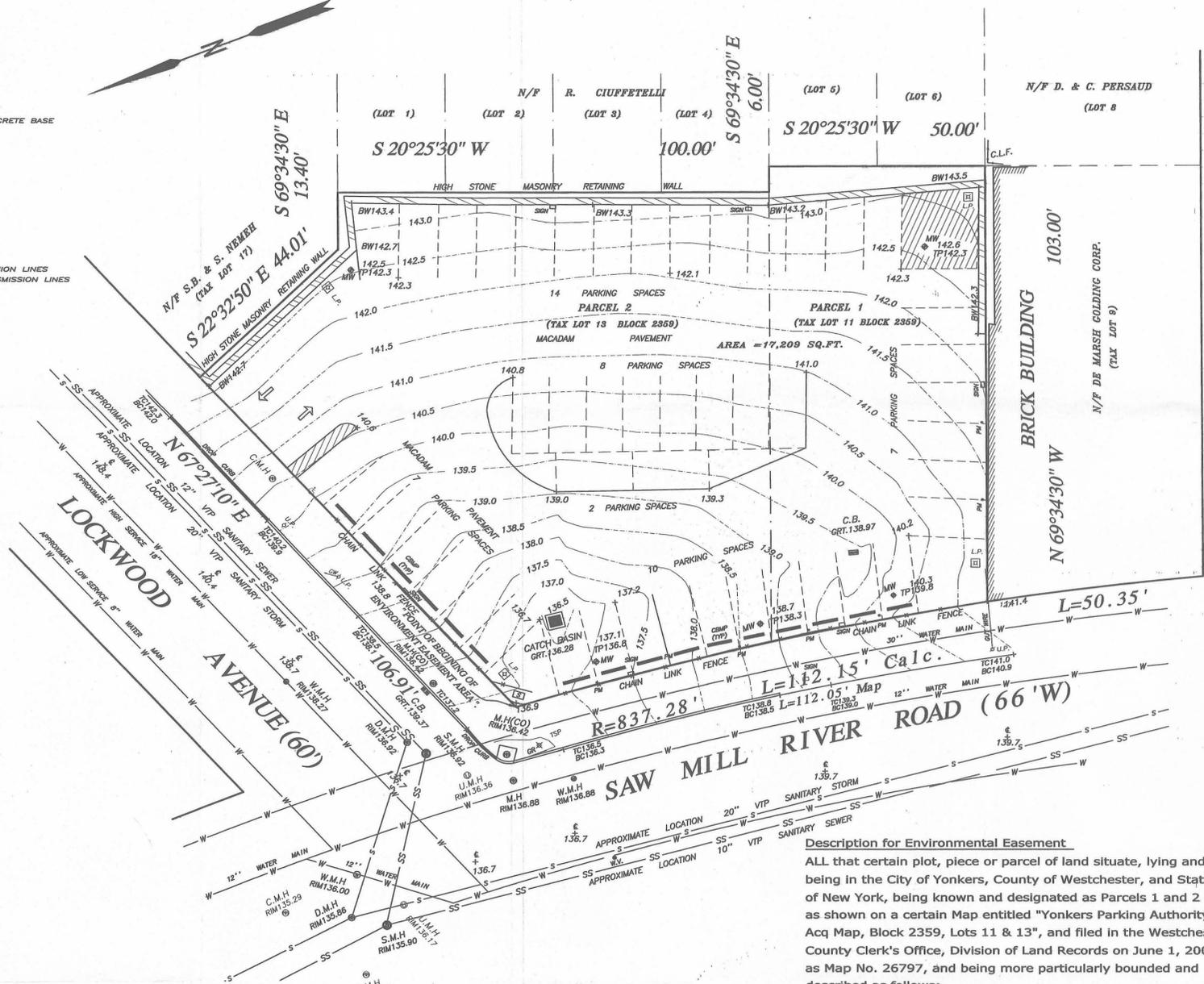
THENCE southerly along said westerly property line of Block 2359, Lots 5 and 6 (N/F Ciufetelli) South 20 degrees 25 minutes 30 seconds West 50.00 feet to the northerly property line of Block 2359, Lot 9 (N/F DeMarsh Holding Corp.);

THENCE westerly along said northerly property line of Block 2359, Lot 9 North 69 degrees 34 minutes 30 seconds West 103.00 feet to easterly line of Saw Mill River Road (66' ROW);

THENCE northerly along the easterly line of Saw Mill River Road along a curve bearing to the left, having a radius of 837.28 feet, an internal angle of 07 degrees 40 minutes 04 seconds, and an arc length of 112.05 feet to the point of BEGINNING.

LEGEND

- ⊙ C.M.H CON ED MANHOLE
- ⊙ D.M.H DRAINAGE MANHOLE
- ⊙ S.M.H SEWER MANHOLE
- ⊙ M.H(CO) MANHOLE CLEAN OUT
- ⊙ U.M.H UTILITY MANHOLE
- ⊙ W.M.H WATER MANHOLE
- ⊙ C.B. CATCH BASIN
- ⊙ U.P. UTILITY POLE
- ⊙ T.S.P. TRAFFIC SIGNAL POLE
- ⊙ L.P. LIGHT POLE ON CONCRETE BASE
- ⊙ G.V. GAS VALVE
- ⊙ W.V. WATER VALVE
- ⊙ P.M. PARKING METER
- ⊙ B.C. BOTTOM CURB
- ⊙ T.C. TOP CURB
- ⊙ B.W. BOTTOM WALL
- ⊙ T.W. TOP WALL
- ⊙ S.S. SANITARY SEWER
- ⊙ S. STORM (DRAINAGE)
- ⊙ W. WATER MAIN
- ⊙ G.R.T. GRATE
- ⊙ G.W. GUY WIRE
- ⊙ I.N.V. INVERT
- ⊙ O.E. OVERHEAD TRANSMISSION LINES
- ⊙ U.E. UNDERGROUND TRANSMISSION LINES
- ⊙ M.W. MONITORING WELL
- ⊙ C.B.M.P. CONCRETE BUMPER
- ⊙ G.R. GUARD RAIL
- ⊙ S.I. SIGN



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 the Easement are set forth in more detail in Site Management Plan ("SMP"). A copy of the SMP must be obtained by any party with an interest in the property. The SMP may be obtained from the New York State Department of Environmental Conservation, Division of Environmental Remediation, Site Control Section, 625 Broadway, Albany, N.Y. 12233 or at derweb@gw.dec.state.ny.us.

THE ENGINEERING / INSTITUTIONAL CONTROLS

Soil Cover System and/or Engineered Cap - Procedures for operating and monitoring the soil cover and or engineered cap are included in the Site Management Plan (SMP) included in the Site Management Plan (SMP).

Site Management Plan - Continued compliance with the approved SMP.

Groundwater Monitoring Wells and Soil Vapor Probes - Groundwater monitoring wells and soil vapor probes, must be protected and replaced as necessary to ensure the devices function in a manner specified in the SMP.

Vegetable Gardens and Farming - including cattle and dairy farming on the property are prohibited.

Groundwater Use - The use of Groundwater underlying the property is prohibited without rendering it safe for the intended purpose.

Land Use - The use and development of the site is limited to Restricted Residential use which includes Commercial and Industrial uses only "as described in 6 NYCRR Part 375-1.8 (g) (2) (ii), (iii) and (iv)."

ENVIRONMENTAL EASEMENT AREA ACCESS

THE DEC OR THEIR AGENT MAY ACCESS THE ENVIRONMENTAL EASEMENT AREA AS SHOWN HEREON THROUGH ANY EXISTING STREET ACCESS OR BUILDING INGRESS/EGRESS ACCESS POINT.

Description for Environmental Easement

ALL that certain plot, piece or parcel of land situate, lying and being in the City of Yonkers, County of Westchester, and State of New York, being known and designated as Parcels 1 and 2 as shown on a certain Map entitled "Yonkers Parking Authority, Acq Map, Block 2359, Lots 11 & 13", and filed in the Westchester County Clerk's Office, Division of Land Records on June 1, 2001 as Map No. 26797, and being more particularly bounded and described as follows:

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NOTES:
 Contour Interval 0.5'
 Unauthorized alteration or additions to this survey map are a violation of section 7209 sub-section 2, of the New York State Education Law. No guarantee is implied by this map as to the existence or non-existence of any easements of record that would affect subject property, unless surveyor has been furnished a complete copy of the title report.
 Dimensions shown from structures to property lines are not intended to be used for construction of fences, structures or other improvements. Underground utilities as shown hereon are located from field and municipal data available at this time and should be verified by the contractor at the time of construction.

PARCELS OF REAL PROPERTY KNOWN AS SECTION 2 BLOCK 2359 LOTS 11 & 13 ON THE OFFICIAL TAX MAP OF THE CITY OF YONKERS CONDEMNATION PROCEEDINGS SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF NEW YORK - INDEX No. 02329-01 IN THE MATTER OF THE PROCEEDINGS PURSUANT TO THE NEW YORK EMINENT DOMAIN PROCEDURE LAW BY YONKERS PARKING AUTHORITY PETITIONER-CONDEMNOR - AGAINST - REX REALTY OF CONNECTICUT, INC. OWNER ORDER AND JUDGMENT FILED AND ENTERED AT WESTCHESTER COUNTY CLERK ON APRIL 20, 2001

CERTIFIED TO: YONKERS PARKING AUTHORITY NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION CITY OF YONKERS BENCHMARK TITLE AGENCY, LLC
 " THIS SURVEY HAS BEEN REVISED WITH THE BENEFIT OF TITLE REPORT COMMITMENT No. BT469419, DATED 03/01/2012" PREPARED BY BENCHMARK TITLE AGENCY, LLC.
 REVISED: OCTOBER 02, 2012

[Signature]
 ARISTOTLE BOURNAZOS, L.S.N.Y.S. LIC.#46553



NO.	DATE	REVISION	BY
	09/14/12	REVISED	
	08/23/12	REVISED	
	03/23/04	SURVEY- TOPOGRAPHY- MONITORING WELLS	

SURVEY
 OF
 " PARCELS 1 & 2 YONKERS PARKING AUTHORITY- ACQ MAP BLOCK 2359 LOTS 11 & 12, CITY OF YONKERS, WESTCHESTER COUNTY, NEW YORK FILED IN THE WESTCHESTER COUNTY CLERK'S DIVISION OF LAND RECORDS JUNE 6, 2001 AS MAP # 26797

ARISTOTLE BOURNAZOS, P.C.
 Land Surveyors-Planners
 20 Cedar Street, New Rochelle, N.Y. 10801
 Phone: (914) 633-0100 Fax: (914) 633-1762