

Honorable Kathleen C. Hochul
County Clerk
Erie County
92 Franklin Street
Buffalo, NY 14202
(716) 858-8865

DATE:12/21/2007
TIME:12:30:03 PM
RECEIPT:460456

HISCOCK BARCLAY

ITEM -01 785U 12:30:03 PM
CTRL #:2007273024 BK/PG:D11138/8562
DEED SEQ:TT2007010982
HYDRO-AIR COMPONENTS INC
RECORDING FEE 70.00
TP584 10.00
MARKOFF FEE 0.50
Sub. Total 80.50

AMOUNT DUE: \$80.50
PAID CHECK: \$80.50
Check #:414862 \$80.50
TOTAL PAID: \$80.50

REC BY:ELAINED
County Clerk
Have a nice day!

County: Erie

Site No: C915204

Contract/Order No: B9-0716-06-05

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

THIS INDENTURE made this 7th day of December, 2007, between HYDRO-AIR COMPONENTS, INC. having an office at 100 Rittling Boulevard, Buffalo, New York 14220 (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 of ensuring the potential 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 100 Rittling Boulevard, Buffalo, Erie County, New York 14220, known and designated as tax map number 132.12-1-9.121, being the same as that property conveyed to Grantor by deed recorded on August 4, 2006, in the Records of the Erie County Clerk at page 4659, liber 11117 of Deeds, comprised of approximately 30.91 acres, and hereinafter more fully described in Schedule A and Schedule B (survey map), both attached hereto and made a part hereof (the " Controlled Property"); and;

WHEREAS, the Commissioner does hereby acknowledge that 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 at this 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 covenants and mutual promises contained herein and the terms and conditions of **Brownfield Cleanup Agreement Number B9-0716-06-05**, Grantor grants, conveys and releases to Grantee a permanent Environmental Easement pursuant to Article 71, Title 36 of the ECL in, on, over, under, and upon the Controlled Property as

FILED

DEC 21 2007

ERIE COUNTY
CLERK'S OFFICE

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 potential restriction of future uses of the land that are inconsistent with the above-stated purpose.

2. Institutional and Engineering Controls. The following controls 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:

The Controlled Property may be used for restricted industrial use as long as the following long-term engineering controls are employed:

(i) a soil cover system and vegetation in accordance with the Soil/Fill Management Plan in the NYSDEC-approved Site Management Plan shall be maintained over undeveloped portions of the Controlled Property;

(ii) an active subslab depressurization system (ASD) to eliminate potential soil vapor intrusion shall be installed, operated and maintained in all new buildings and building additions in accordance with the standards and procedures specified in the NYSDEC-approved Site Management Plan, and the ASD already installed in the existing building shall continue to be operated and maintained in accordance with the NYSDEC-approved Site Management Plan, unless the Department determines that the ASD is not necessary based on the results of a Department approved evaluation of potential sub-slab vapor impacts;

(iii) the groundwater beneath the Controlled Property cannot be used as a potable water source or for any other use without prior written permission of the Department;

(iv) groundwater monitoring in accordance with the SMP shall continue until the Department determines that continued monitoring is unnecessary;

(v) the in-situ treatment of residual contamination in native soils using oxygen release compounds (ORC) shall be maintained and monitored in accordance with the SMP until the Department determines that continued maintenance and monitoring of ORC is unnecessary; and

(vi) in areas of the Controlled Property with known groundwater impacts, storm water injection (drywells) will be prohibited and storm water conveyance pipes will be required to have gasketed joints for water tightness to prevent the infiltration of impacted groundwater into the collection system.

The Grantor hereby acknowledges receipt of a copy of the NYSDEC-approved Site Management Plan, dated November 2007 (“SMP”). The SMP describes obligations that Grantor assumes on behalf of Grantor, its successors and assigns. The Grantor’s assumption of the

County: Erie

Site No: C915204

Contract/Order No: B9-0716-06-05

obligations contained in the SMP which may include sampling, monitoring, and/or operating a treatment system on the Controlled Property, 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. Upon notice of not less than 30 days the Department in exercise of its discretion and consistent with applicable law, may revise the SMP. The notice shall be a final agency determination. 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

Region 9 NYS DEC 270

Michigan Avenue

Buffalo, NY 14203

or:

Site Control Section

Division of Environmental Remediation

NYSDEC

625 Broadway Albany

New York 12233

B. The Controlled Property may not be used for a higher level of use such as unrestricted residential or commercial use and the above-stated engineering controls may not be discontinued without an amendment or extinguishment of this Environmental Easement.

C. Grantor covenants and agrees that until such time as the Environmental Easement is extinguished in accordance with the requirements of 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.

D. 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.

E. 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 that the controls employed at the Controlled Property are unchanged from the previous certification or that any changes to the controls employed at the Controlled Property were approved by the NYSDEC, and that nothing has occurred that would impair the ability of such control to protect the public health and environment or constitute a violation or failure to comply with any Site Management Plan for such controls and giving access to such Controlled Property to evaluate continued maintenance of such controls.

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 Controlled Property, including:

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

2. The right to give, sell, assign, or otherwise transfer the underlying fee interest to the Controlled Property by operation of law, by deed, or by indenture, 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 intentionally violates this Environmental Easement, the Grantee may revoke the Certificate of Completion provided under ECL Article 27, Title 14, or Article 56, Title 5 with respect to the Controlled Property.

C. Grantee shall notify Grantor of a breach or suspected breach of any of the terms of this Environmental Easement. Such notice shall set forth how Grantor can cure such breach or suspected breach and give Grantor a reasonable amount of time from the date of receipt of notice in which to cure. At the expiration of such period of time to cure, or any extensions granted by Grantee, the Grantee shall notify Grantor of any failure to adequately cure the breach or suspected breach. Grantor shall then have a reasonable amount of time from receipt of such notice to cure. At the expiration of said second period, Grantee may commence any proceedings and take any other appropriate action reasonably necessary to remedy any breach of this Environmental Easement in accordance with applicable law to require compliance with the terms of this Environmental Easement.

County: Erie

Site No: C915204

Contract/Order No: B9-0716-06-05

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

Grantor's Name: HYDRO-AIR COMPONENTS, INC.

By: [Signature]
Title: Kevin T Koch Chief Financial Officer Date: 12/17/07

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

by: [Signature]
Alexander B. Grannis, Commissioner

Grantor's Acknowledgment

STATE OF NY)
)ss
COUNTY OF Erie)

On the 7th day of Dec., in the year 2007, before me, the undersigned, personally appeared Kevin T Koch, personally known to me who, being duly sworn, did depose and say that he/she/they reside at Squire De Olchard PK NY 14127 (full mailing address) and that he/she/they is (are) the Chief Financial Officer (President or other officer or director or attorney in fact duly appointed of the Hydro Air (full legal name of corporation) the corporation described in and which executed the above instrument; and that he/she/they signed his/her/their name(s) thereto by the authority of the board of directors of said corporation.

[Signature]
Notary Public - State of New York

SHIRLEY M. WENZEL
NOTARY PUBLIC, State of New York
Qualified in Erie County
My Commission Expires: 11/30/09

County: Erie

Site No: C915204

Contract/Order No: B9-0716-06-05

Grantor's Acknowledgement

STATE OF)
) ss:
COUNTY OF)

On the _____ day of _____, in the year 20 __, before me, the undersigned, personally appeared _____, 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

Grantee's Acknowledgement

STATE OF NEW YORK)
)ss
COUNTY OF ALBANY)

On the 26 day of December, in the year 2007, before me, the undersigned, personally appeared ALEXANDER B. GRANNIS, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she/ executed the same in his capacity as Commissioner of the State of New York Department of Environmental Conservation, and that by his 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

Scott Owens
New York State
Albany County
Expires 4-12-08

SCOTT OWENS
Notary Public, State of New York
No. 02OW6108092
Qualified in Albany County
Commission Expires April 12, 2008

SCHEDULE A

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Buffalo, County of Erie and State of New York, being part of the Ogden Gore Lot No. 17, and being more particularly described as follows:

BEGINNING at a point in the westerly line of Abby Street with the northerly line of Providence Street, which point is northerly 364.68 feet more or less measured along the westerly line of Abby Street from its intersection with the northerly line of Tiff Street and which point is also the southeasterly corner of Subdivision Lot No. 87 as shown on a map filed in the Erie County Clerk's Office under Cover No. 589; thence northerly along the westerly line of Abby Street, a distance of 879.14 feet more or less to the southeasterly corner of lands conveyed by Bethlehem Steel Corporation to Republic Steel Corporation under deed dated June 24, 1968 and recorded June 27, 1968 in the Erie County Clerk's Office in Liber 7482 of Deeds at page 400; thence westerly and along the southerly line of lands of aforesaid Republic Steel Corporation, 1635.95 feet more or less to the southeasterly corner of land conveyed by Krull to McClintic Marshall Construction Co. by deed recorded in the Erie County Clerk's Office in Liber 2070 of Deeds at page 130; thence continuing westerly along the south line of said land conveyed by Krull to McClintic Marshall Construction Co. to a point 77 feet easterly of the center line of the main track of the South Buffalo Railway as measured along said south line of land conveyed by Krull to McClintic Marshall Construction Co.; thence southerly along a line drawn parallel with and 77 feet easterly of the center line of the main track of the South Buffalo Railway 1163 feet to the northerly line of Tiff Street; thence easterly along the northerly line of Tiff Street 156.84 feet to a point in the northerly line of Tiff Street, 1142 feet west of the intersection of the northerly line of Tiff Street with the westerly line of Abby Street, as measured along the northerly line of Tiff Street; thence northerly 137.85 feet along the west line of Subdivision Lot No. 39 as shown under map filed in the Erie County Clerk's Office under Cover No. 589; thence westerly along a line drawn parallel to the north line of Tiff Street 45.45 feet; thence northerly at right angles and along the west line of Subdivision Lot No. 46, as shown under Map Cover No. 589 as filed in the Erie County Clerk's Office, a distance of 170.85 to a point; thence easterly and parallel with the northerly line of Tiff Street 8.23 feet to the west line of Subdivision Lot No. 130 as shown under map filed in the Erie County Clerk's Office under Cover No. 589, as extended southerly; thence northerly at right angles and along said west line of Subdivision Lot No. 130 extended southerly, 33.00 feet more or less to the southwest corner of said Subdivision Lot No. 130 and the northerly line of Providence Street; thence easterly along the northerly line of Providence Street which is also the southerly line of Subdivision Lots 87, and 91 through 130 inclusive as shown on a map filed in the Erie County Clerk's Office under Cover No. 589, a distance of 1307.43 feet to point in the westerly line of Abby Street at the point of beginning.

County: Erie

Site No: C915204

Contract/Order No: B9-0716-06-05

SCHEDULE B

Survey of Controlled Property

SURVEY OF LANDS

CONVEYED TO
HERBOS-AIR
COMPONENTS, INC.
BUFFALO, N.Y.

CITY OF BUFFALO
STATE OF NEW YORK

LISTED AS OF THE GREEN BOOK PLAN

NO.	DATE	DESCRIPTION
1	11/11/16	AREA I
2	11/11/16	AREA II
3	11/11/16	AREA III
4	11/11/16	AREA IV
5	11/11/16	AREA V
6	11/11/16	AREA VI
7	11/11/16	AREA VII
8	11/11/16	AREA VIII
9	11/11/16	AREA IX
10	11/11/16	AREA X
11	11/11/16	AREA XI
12	11/11/16	AREA XII
13	11/11/16	AREA XIII
14	11/11/16	AREA XIV
15	11/11/16	AREA XV
16	11/11/16	AREA XVI
17	11/11/16	AREA XVII
18	11/11/16	AREA XVIII
19	11/11/16	AREA XIX
20	11/11/16	AREA XX



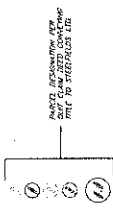
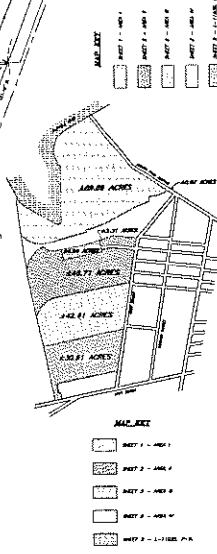
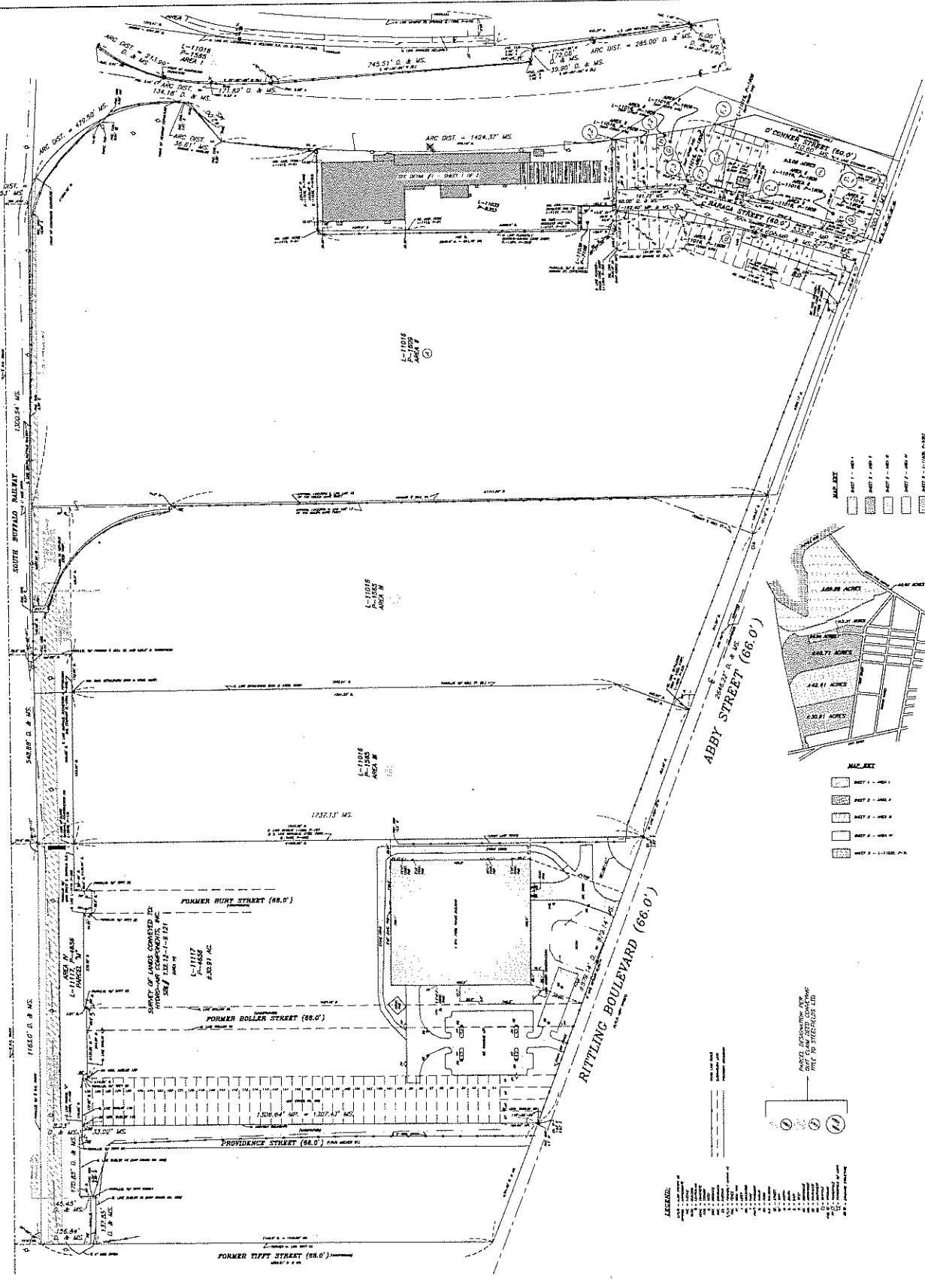
STATE OF NEW YORK

AREA II = 450.01 AC.
AREA III = 440.88 AC.
AREA IV = 430.81 AC.
L-11035 = 44.64 AC.
P-9353
AREA - 2, 3, 4 &
L-11035, P-9353
TOTAL ACRES:
±127.98 ACRES

NO.	DATE	DESCRIPTION
1	11/11/16	AREA I
2	11/11/16	AREA II
3	11/11/16	AREA III
4	11/11/16	AREA IV
5	11/11/16	AREA V
6	11/11/16	AREA VI
7	11/11/16	AREA VII
8	11/11/16	AREA VIII
9	11/11/16	AREA IX
10	11/11/16	AREA X
11	11/11/16	AREA XI
12	11/11/16	AREA XII
13	11/11/16	AREA XIII
14	11/11/16	AREA XIV
15	11/11/16	AREA XV
16	11/11/16	AREA XVI
17	11/11/16	AREA XVII
18	11/11/16	AREA XVIII
19	11/11/16	AREA XIX
20	11/11/16	AREA XX

BOUNDARY SURVEY

NO.	DATE	DESCRIPTION
1	11/11/16	AREA I
2	11/11/16	AREA II
3	11/11/16	AREA III
4	11/11/16	AREA IV
5	11/11/16	AREA V
6	11/11/16	AREA VI
7	11/11/16	AREA VII
8	11/11/16	AREA VIII
9	11/11/16	AREA IX
10	11/11/16	AREA X
11	11/11/16	AREA XI
12	11/11/16	AREA XII
13	11/11/16	AREA XIII
14	11/11/16	AREA XIV
15	11/11/16	AREA XV
16	11/11/16	AREA XVI
17	11/11/16	AREA XVII
18	11/11/16	AREA XVIII
19	11/11/16	AREA XIX
20	11/11/16	AREA XX



AMERICAN COLLEGE OF SURVEYORS
1100 N. 10TH ST. SUITE 100
ARLINGTON, VA 22201
TEL: 703/241-1100
FAX: 703/241-1101
WWW.ACSURVEYORS.ORG

LEGEND:
1. ALL LOTS ARE TO BE CONVEYED TO HERBOS-AIR COMPONENTS, INC.
2. ALL LOTS ARE TO BE CONVEYED TO HERBOS-AIR COMPONENTS, INC.
3. ALL LOTS ARE TO BE CONVEYED TO HERBOS-AIR COMPONENTS, INC.
4. ALL LOTS ARE TO BE CONVEYED TO HERBOS-AIR COMPONENTS, INC.
5. ALL LOTS ARE TO BE CONVEYED TO HERBOS-AIR COMPONENTS, INC.
6. ALL LOTS ARE TO BE CONVEYED TO HERBOS-AIR COMPONENTS, INC.
7. ALL LOTS ARE TO BE CONVEYED TO HERBOS-AIR COMPONENTS, INC.
8. ALL LOTS ARE TO BE CONVEYED TO HERBOS-AIR COMPONENTS, INC.
9. ALL LOTS ARE TO BE CONVEYED TO HERBOS-AIR COMPONENTS, INC.
10. ALL LOTS ARE TO BE CONVEYED TO HERBOS-AIR COMPONENTS, INC.