



Knauf Shaw LLP

ATTORNEYS AT LAW

APR 08 2019

April 5, 2019

VIA FEDEX

Bradford Burns, Esq.
New York State Department of Environmental Conservation
Office of General Counsel
625 Broadway
Albany, NY 12233

**RE: BH Aircraft Site
Site #C152247
441 Eastern Parkway
East Farmingdale, New York 11735**

Dear Mr. Burns:

Enclosed please find my affirmation in support of mailing the municipal notices, copies of the letters that have been sent to the municipalities, which included the recorded easement, and your copies of the recorded easement.

Please do not hesitate to contact me if you have any questions. Thank you.

Sincerely,

KNAUF SHAW LLP

JONATHAN R. TANTILLO

NEW YORK STATE DEPARTMENT ENVIRONMENTAL CONSERVATION
BROWNFIELD CLEANUP PROGRAM
ECL § 27-1401 *et seq.*

BH Aircraft Site

DEC Site No.: C152247

Located at: 441 Eastern Parkway
East Farmingdale, NY 11735

Volunteer:
441 Eastern Parkway, LLC
36-11 Northern Boulevard
Long Island City, NY 11101

**AFFIRMATION OF
JONATHAN R. TANTILLO
IN SUPPORT OF MAILING
MUNICIPAL NOTICES**

I, Jonathan R. Tantillo, an attorney admitted to practice in the State of New York, affirms under penalty of perjury the following:

1. Knauf Shaw LLP are the attorneys of record for 441 Eastern Parkway, LLC, which is the Volunteer for the New York State Brownfield Cleanup Program Site ("BCP"), BH Aircraft Site, Site Number C152247.
2. On April 5, 2019, I mailed a true copy of a Notice to Municipality to Patrick Halpin, Chairperson of the Town of Babylon Planning Board, at 200 E. Sunrise Highway, Lindenhurst, New York 11757, by depositing a true copy of the same enclosed in a first-class, postpaid addressed envelope in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York.
3. On April 5, 2019, I mailed a true copy of a Notice to County to Jennifer Casey, Chair of the Suffolk County Planning Commission, at the H. Lee Dennison Building, 11th Floor, 100 Veterans Memorial Highway, Hauppauge, New York 11788-0099, by depositing a true copy of the same enclosed in a first-class, postpaid addressed envelope in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

WHEREFORE, Jonathan R. Tantillo respectfully requests that this affirmation is acceptable proof of mailing for the municipal notices required for the Brownfield Cleanup Program Site.

Dated: April 5, 2019



JONATHAN R. TANTILLO

Notice to Municipality

Date: 4/5/2019

Patrick Halpin, Chairperson
Town of Babylon Planning Board
200 E. Sunrise Highway
Lindenhurst, NY 11757

Re: Environmental Easement

Dear Mr. Halpin:

Attached please find copies of environmental easements granted to the New York State Department of Environmental Conservation ("Department")

Recorded on 1/31/2019
by 441 Eastern Parkway, LLC
for property at 441 Eastern Parkway, East Farmingdale, NY 11735
Tax Map No(s): 046.00-1.00-020.000
DEC Site No: C152247

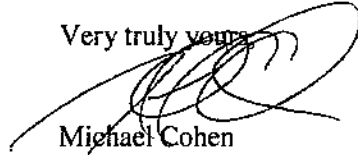
This Environmental Easement restricts future use of the above-referenced property to commercial, and industrial uses. Any on-site activity must be done in accordance with the Environmental Easement and the Site Management Plan which is incorporated into the Environmental Easement. Department approval is also required prior to any groundwater use.)

Article 71, Section 71-3607 of the New York State Environmental Conservation Law requires that:

1. Whenever the department is granted an environmental easement, it shall provide each affected local government with a copy of such easement and shall also provide a copy of any documents modifying or terminating such environmental easement.
2. Whenever an affected local government receives an application for a building permit or any other application affecting land use or development of land that is subject to an environmental easement and that may relate to or impact such easement, the affected local government shall notify the department and refer such application to the department. The department shall evaluate whether the application is consistent with the environmental easement and shall notify the affected local government of its determination in a timely fashion, considering the time frame for the local government's review of the application. The affected local government shall not approve the application until it receives approval from the department.

An electronic version of every environmental easement that has been accepted by the Department is available to the public at: <http://www.dec.ny.gov/chemical/36045.html>. Please forward this notice to your building and/or planning departments, as applicable, to ensure your compliance with these provisions of New York State Environmental Conservation Law. If you have any questions or comments regarding this matter, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Michael Cohen', written over the typed name.

Michael Cohen
Owner, 441 Eastern Parkway, LLC
Volunteer

Notice to County

Date: 4/5/2019

Jennifer Casey, Chair
Suffolk County Planning Commission
H. Lee Dennison Bldg., 11th Floor,
100 Veterans Memorial Hwy.,
Hauppauge, NY 11788-0099

Re: Environmental Easement

Dear Ms. Casey:

Attached please find copies of environmental easements granted to the New York State Department of Environmental Conservation ("Department")

Recorded on 1/31/2019
by 441 Eastern Parkway, LLC
for property at 441 Eastern Parkway, East Farmingdale, NY 11735
Tax Map No(s): 046.00-1.00-020.000
DEC Site No: C152247

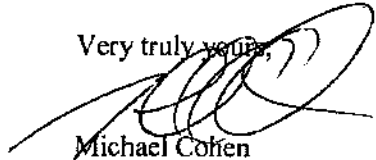
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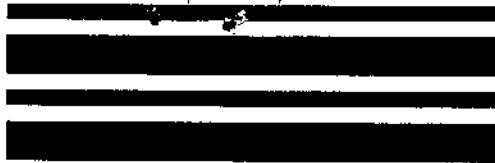
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Very truly yours,

A handwritten signature in black ink, appearing to be 'Michael Cohen', written over the closing 'yours'.

Michael Cohen
Owner, 441 Eastern Parkway, LLC
Volunteer



SUFFOLK COUNTY CLERK
 RECORDS OFFICE
 RECORDING PAGE

Type of Instrument: EASEMENT
 Number of Pages: 10
 Receipt Number : 19-0021840
 TRANSFER TAX NUMBER: 18-21929

Recorded: 01/31/2019
 At: 01:11:28 PM
 LIBER: D00012999
 PAGE: 023

District: 0100 Section: 046.00 Block: 01.00 Lot: 020.000

EXAMINED AND CHARGED AS FOLLOWS

Deed Amount: \$0.00

Received the Following Fees For Above Instrument

		Exempt			Exempt
Page/Filing	\$50.00	NO	Handling	\$20.00	NO
COE	\$5.00	NO	NYS SRCHG	\$15.00	NO
TP-584	\$5.00	NO	Notation	\$0.00	NO
Cert.Copies	\$0.00	NO	RPT	\$200.00	NO
Transfer tax	\$0.00	NO			
			Fees Paid	\$295.00	

TRANSFER TAX NUMBER: 18-21929

THIS PAGE IS A PART OF THE INSTRUMENT
 THIS IS NOT A BILL

JUDITH A. PASCALE
 County Clerk, Suffolk County

1 2

Number of pages 10

RECORDED
2019 Jan 31 01:11:28 PM
JUDITH A. PASCALE
CLERK OF
SUFFOLK COUNTY
L 000012999
P 023
DT# 19-21929

This document will be public record. Please remove all Social Security Numbers prior to recording.

Deed / Mortgage Instrument Deed / Mortgage Tax Stamp Recording / Filing Stamps

3 FEES

Page / Filing Fee 50

Handling 20.00

TP-584 5-

Notation _____

EA-52 17 (County) _____

EA-5217 (State) _____

R.P.T.S.A. 200-

Comm. of Ed. 5.00

Affidavit _____

Certified Copy _____

NYS Surcharge 15.00

Other _____

Sub Total 75

Sub Total 200

Grand Total 275



Mortgage Amt. _____

1. Basic Tax _____

2. Additional Tax _____

Sub Total _____

Spec./Assit. _____

or _____

Spec. /Add. _____

TOT. MTG. TAX _____

Dual Town _____ Dual County _____

Held for Appointment _____

Transfer Tax _____

Mansion Tax _____

The property covered by this mortgage is or will be improved by a one or two family dwelling only.

YES _____ or NO _____

If NO, see appropriate tax clause on page # _____ of this instrument.

10/18/18

4 Dist. 01 3798476 0100 04600 0100 020000 100



Real Property Tax Service Agency Verification

5 Community Preservation Fund

Consideration Amount \$ 0

CPF Tax Due \$ _____

6 Satisfactions/Discharges/Releases List Property Owners Mailing Address RECORD & RETURN TO:

Knauf Shaw Attorney at Law
1400 Crossroads Building
2 State Street
Rochester, NY 14614-1365

Improved _____

Vacant Land _____

TD _____

TD _____

TD _____

Mail to: Judith A. Pascale, Suffolk County Clerk
310 Center Drive, Riverhead, NY 11901
www.suffolkcountyny.gov/clerk

7 Title Company Information

Co. Name First American Title Insurance

Title # 3019-941812

8 Suffolk County Recording & Endorsement Page

This page forms part of the attached Environmental Easement made by: 441 Eastern Parkway, LLC

(SPECIFY TYPE OF INSTRUMENT)

The premises herein is situated in SUFFOLK COUNTY, NEW YORK.

TO People of the State of NY through their Commissioner of the Environmental Conservation

In the TOWN of Babylon

In the VILLAGE _____

or HAMLET of _____

BOXES 6 THRU 8 MUST BE TYPED OR PRINTED IN BLACK INK ONLY PRIOR TO RECORDING OR FILING.

(over)

First American Title Insurance Company

333 Earle Ovington Boulevard

Uniondale, N.Y. 11556

3019-941812

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

THIS INDENTURE made this 18th day of October, 2018, between Owner(s) 441 Eastern Parkway, LLC, having an office at 36-11 Northern Boulevard, Long Island City, New York 11101, County of Queens, 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 441 Eastern Parkway in the Village of Farmingdale, Town of Babylon, County of Suffolk and State of New York, known and designated on the tax map of the County Clerk of Suffolk as tax map parcel numbers: District 0100 Section 046.00 Block 01.00 Lot 020.000, being the same as that property conveyed to Grantor by deed dated November 11, 2016 and recorded in the Suffolk County Clerk's Office in Liber and Page D00012893/422. The property subject to this Environmental Easement (the "Controlled Property") comprises approximately 3.520 +/- acres, and is hereinafter more fully described in the Land Title Survey dated November 4, 2016 and last revised June 13, 2018 prepared by Charles Panetta, L.P.S. of Bladykas & Panetta L.S. & P.E., 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

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: C152247-08-17, 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) The use of groundwater underlying the property is prohibited without necessary water quality treatment as determined by the NYSDOH or the Suffolk 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 or Restricted Residential purposes as defined in 6NYCRR 375-1.8(g)(2)(i) and (ii), 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;

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.

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, and Grantee may take any other appropriate action reasonably necessary to remedy any breach of this Environmental Easement, including the commencement of any proceedings in accordance with applicable law.

D. The failure of Grantee to enforce any of the terms contained herein shall not be deemed a waiver of any such term nor bar any enforcement rights.

6. Notice. Whenever notice to the Grantee (other than the annual certification) or approval from the Grantee is required, the Party providing such notice or seeking such approval shall identify the Controlled Property by referencing the following information:

County, NYSDEC Site Number, NYSDEC Brownfield Cleanup Agreement, State Assistance Contract or Order Number, and the County tax map number or the Liber and Page or computerized system identification number.

Parties shall address correspondence to: Site Number: C152247
Office of General Counsel
NYSDEC
625 Broadway
Albany New York 12233-5500

With a copy to: Site Control Section
Division of Environmental Remediation
NYSDEC
625 Broadway
Albany, NY 12233

All notices and correspondence shall be delivered by hand, by registered mail or by Certified mail and return receipt requested. The Parties may provide for other means of receiving and

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.

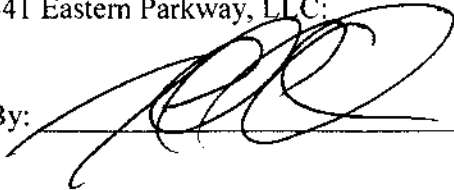
10. Joint Obligation. If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.

11. Consistency with the SMP. To the extent there is any conflict or inconsistency between the terms of this Environmental Easement and the SMP, regarding matters specifically addressed by the SMP, the terms of the SMP will control.

Remainder of Page Intentionally Left Blank

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

441 Eastern Parkway, LLC:

By: 

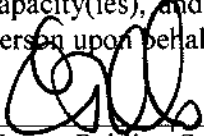
Print Name: Michael Cohen

Title: Member Date: 10/10/18

Grantor's Acknowledgment

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

On the 10 day of October, in the year 2018 before me, the undersigned, personally appeared Michael Cohen 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

CARMELA T. MORELLO
Notary Public, State of New York
No. 4969878
Qualified in Westchester County
Commission Expires July 30, 2022

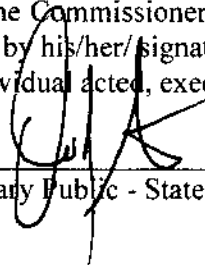
THIS ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY THE PEOPLE OF THE STATE OF NEW YORK, Acting by and Through the Department of Environmental Conservation as Designee of the Commissioner,

By: 
Michael J. Ryan, Director
Division of Environmental Remediation

Grantee's Acknowledgment

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

On the 18th day of October, in the year 2018 before me, the undersigned, personally appeared Michael J. Ryan, 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, 2022

SCHEDULE "A" PROPERTY DESCRIPTION

ALL those lots or parcels of land, in or near the Village of Farmingdale, Town of Babylon, County of Suffolk and State of New York, bounded and described as follows:

BEGINNING at a point on the northerly side of Eastern Parkway distant 931.69 feet easterly from the corner formed by the intersection of the northerly side of Eastern Parkway with the easterly side of Oakview Avenue;

RUNNING THENCE North 06 degrees 35 minutes 00 seconds West, a distance of 213.83 feet;

THENCE North 83 degrees 25 minutes 00 seconds East, a distance of 725.52 feet;

THENCE South 02 degrees 34 minutes 00 seconds East, a distance of 214.36 feet;

THENCE South 83 degrees 25 minutes 25 seconds West, a distance of 710.50 feet to the point or place of BEGINNING.

AREA: 153,504.5 SQ. FT. or 3.52 Acres