

APPENDIX C
ENVIRONMENTAL EASEMENT

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

THIS INDENTURE made this 18th day of September, 2013, between Owner(s) Rolling Frito-Lay Sales, LP, a Delaware limited partnership, having an office at 7701 Legacy Drive, Real Estate 4A-237, Plano, Texas 75024-4099, (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 202-218 Morgan Avenue in the County of Kings, City and State of New York, known and designated on the tax map of the City Register of the City of New York as tax map parcel numbers: Block 2942 Lot(s) 105, 111 and 112, being the same as that property conveyed to Grantor by deed dated April 28, 2006 and recorded May 12, 2006 in the Office of the City Register of the City of New York in City Register File Number (CRFN): 2006000266592. The property subject to this Environmental Easement (the "Controlled Property") comprises approximately 2.76 +/- acres, and is hereinafter more fully described in the Land Title Survey dated April 25, 2012 prepared by Pennoni Associates Inc., 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: A2-0622-0709, 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:

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, Restricted Residential or Commercial purposes as defined in 6NYCRR 375-1.8(g)(i), (ii) and (iii), 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.

[6/11]

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: C224133
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
[6/11]

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: Rolling Frito-Lay Sales, LP,

By: 

Print Name: Russell Burton

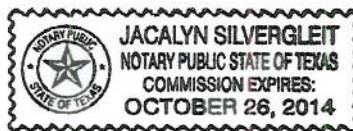
Title: Authorized Signatory Date: September 10, 2013

Grantor's Acknowledgment

STATE OF TEXAS)
) ss:
COUNTY OF COLLIN)

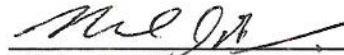
On the 10th day of Sept., in the year 20 13, before me, the undersigned, personally appeared Russell A. Burton, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they 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 Texas



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:

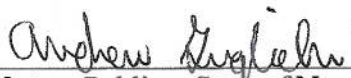


Michael J. Ryan, Assistant Director
Division of Environmental Remediation

Grantee's Acknowledgment

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

On the 18th day of September, in the year 2013, 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 whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity as Designee of the 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

ANDREW O. GUGLIELMI
Notary Public - State of New York
No. 02GU6177593
Qualified in Albany County
My Commission Expires November 13, 2015

SCHEDULE "A" PROPERTY DESCRIPTION

Address: 202-218 Morgan Ave. Brooklyn, NY

Tax Map: Block: 2942 Lot(s): 105, 111 & 112

BEGINNING AT A POINT OF THE EASTER LY SIDE OF MORGAN AVENUE, BEING 582.50' FROM THE SOUTHERN SIDE OF GRAND STREET;

THENCE (1): FROM SAID BEGINNING POINT, ALONG THE SOUTHERLY LINE OF LOT 1, BLOCK 2942, N72°28'00"E, A DISTANCE OF 489.00 FEET, TO A POINT ON THE UNITED STATES PIERHEAD & BULKHEAD LINE;

THENCE (2): ALONG THE UNITED STATES PIERHEAD & BULKHEAD LINE, S17°32'00"E, A DISTANCE OF 237.46 FEET, TO A POINT;

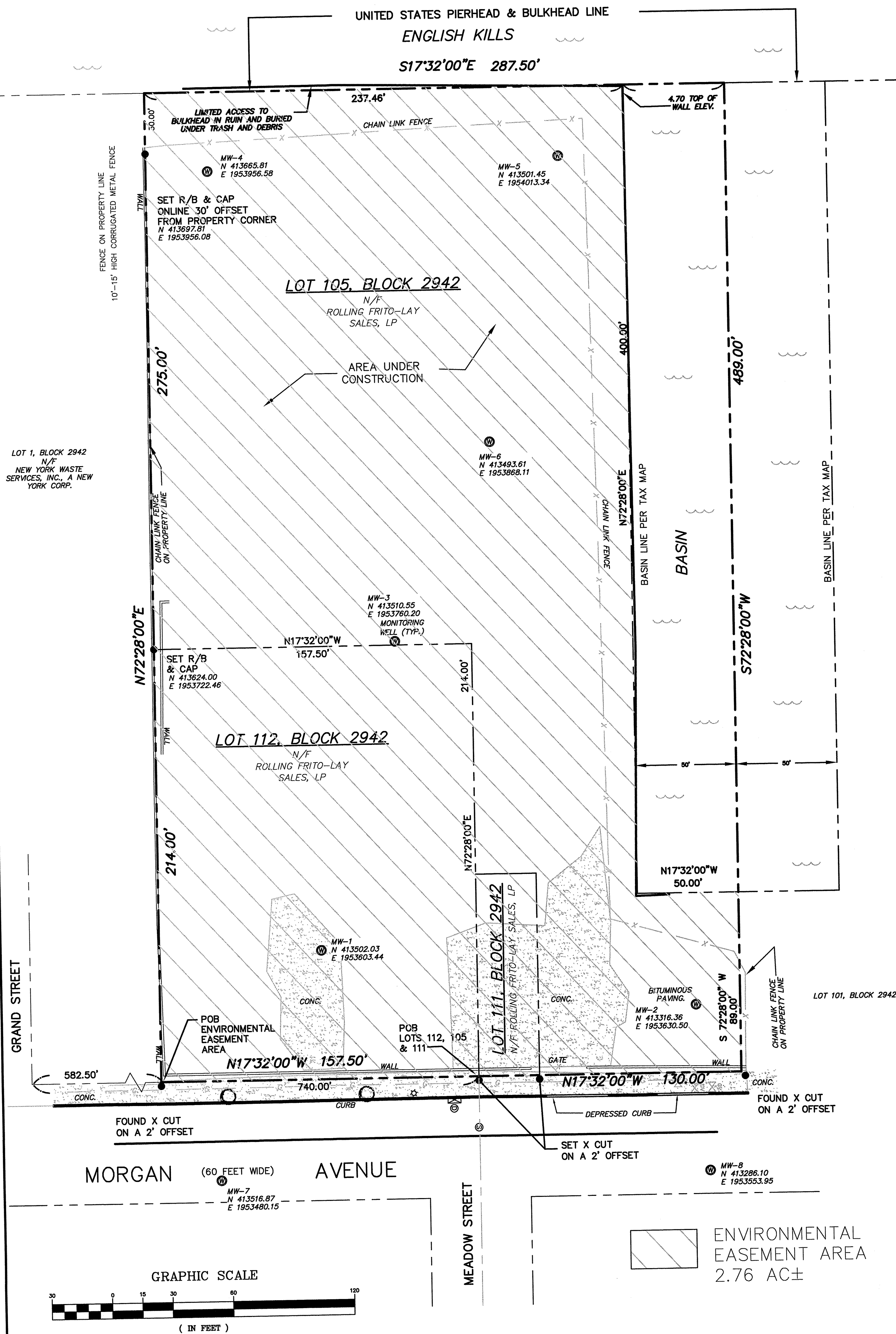
THENCE (3): LEAVING SAID PIERHEAD & BULKHEAD LINE, S72°28'00"W, A DISTANCE OF 400.00 FEET, TO A POINT;

THENCE (4): S17°32'00"E, A DISTANCE OF 50.00 FEET, TO A POINT, COMMON TO THE NORTHERLY LINE OF LOT 101, BLOCK 2942;

THENCE (5): ALONG SAID NORTHERLY LINE OF LOT 101, BLOCK 2942, S72°28'00"W, A DISTANCE OF 89.00 FEET, TO A POINT, ON THE EASTERLY LINE OF MORGAN AVENUE;

THENCE (6): ALONG SAID EASTERLY LINE OF MORGAN AVENUE, N17°32'00"W, A DISTANCE OF 287.50 FEET, TO THE POINT OF BEGINNING.

BEING AND IN TENDING TO DESCRIBE A PORTION OF THAT PARCEL OF LAND CONVEYED TO ROLLING FRITO-LAY SALES, LP , A DELAWARE LIMITED PARTNERSHIP FROM GLORIA DEVELOPMENT CORP., BY DEED DATED APRIL 28, 2006 AND RECORDED ON MAY 4, 2006 IN CITY REGISTER FILE NO. (CRFN): 2005000266592 IN THE OFFICE OF THE CITY REGISTER OF THE CITY OF NEW YORK.



NOTES

- 1) INFORMATION SHOWN HEREON IS BASED ON FIELD SURVEYS BY PENNONI ASSOCIATES INC. ON 4/25/12.
 - 2) FLOOD HAZARD: SUBJECT PROPERTY LIES WITHIN ZONE AS & B AS SHOWN IN ACCORDANCE WITH FIRM FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NUMBER 360497-0055 B, DATED 11/16/1983. ZONE AS AREAS OF 100-YEAR FLOOD; BASE FLOOD ELEVATIONS AND FLOOD HAZARD FACTORS SUBJECT TO 100-YEAR FLOODING WITH AVERAGE DEPTHS LESS THAN 1 FOOT OR WHERE THE CONTRIBUTING DRAINAGE AREA IS LESS THAN ONE SQUARE MILE ; OR AREAS PROTECTED BY LEVEES FROM THE BASE FLOOD.
 3. THIS SURVEY HAS BEEN PREPARED WITH THE BENEFIT OF TITLE REPORT BY FIDELITY NATIONAL TITLE INSURANCE COMPANY COMMITMENT NO. 12-7405-62673-K, DATED JUNE 16, 2013.
- LOT 105, BLOCK 2942 103,882 SF±/2.38460 AC±
LOT 112, BLOCK 2942 33,705 SF±/0.77276 AC±
LOT 111, BLOCK 2942 3,000 SF±/0.06897 AC±

REFERENCE

1. A PLAN BY MERLYN J. JENKINS & ASSOCIATES, PREPARED FOR HAYES & MATTHEWS, INC. TITLED EASTERN P/S TRANSFER STATION, DATED 6/05/1999
2. A PLAN BY PENNONI ASSOCIATES ENTITLED ALTA/ACSM LAND TITLE SURVEY DATED 7/15/04, JOB #URSG 0402.
3. A PLAN BY PENNONI ASSOCIATES ENTITLED TOPOGRAPHIC SURVEY DATED 7/01/07 LAST REVISED 8/01/11.
4. A PLAN BY PENNONI ASSOCIATES ENTITLED PROPERTY SURVEY AND TOPOGRAPHIC SURVEY DATED 8/29/07, REV'D 6/03/09 AND 5/15/08, RESPECTIVELY, JOB# HASK 0701.
5. A PLAN BY BORLO LAND SURVEYING, P.C. ENTITLED "ALTA/ACSM LAND TITLE SURVEY" DATED 4/04/06.
6. VARIOUS DEEDS AND TAX MAPS

TITLE REPORT INFORMATION:

- INFORMATION CONTAINED IN TITLE INSURANCE COMMITMENT ISSUED BY CHICAGO TITLE INSURANCE COMPANY, FILE NUMBER: 12-7405-62673K, COMMITMENT DATE 04/26/2012.
- SCHEDULE B SECTION:
- | ITEM # | DESCRIPTION |
|--------|---|
| 5 | RAILROAD AGREEMENT DATED 12/29/1903 AND RECORDED IN LIBER 19 SECT 10 PAGES 7 |
| 6 | SEWER AGREEMENT DATED 7/26/1904 AND RECORDED IN LIBER 21 SECT 10 PAGES 300 & 301. |
| 15 | RIGHTS OF THE UNITED STATES FOR PIERS BULK HEADS AND LAND UNDER WATER |
| 16 | RIGHTS OF THE UNITED STATES BELOW THE HIGH WATER MARK |

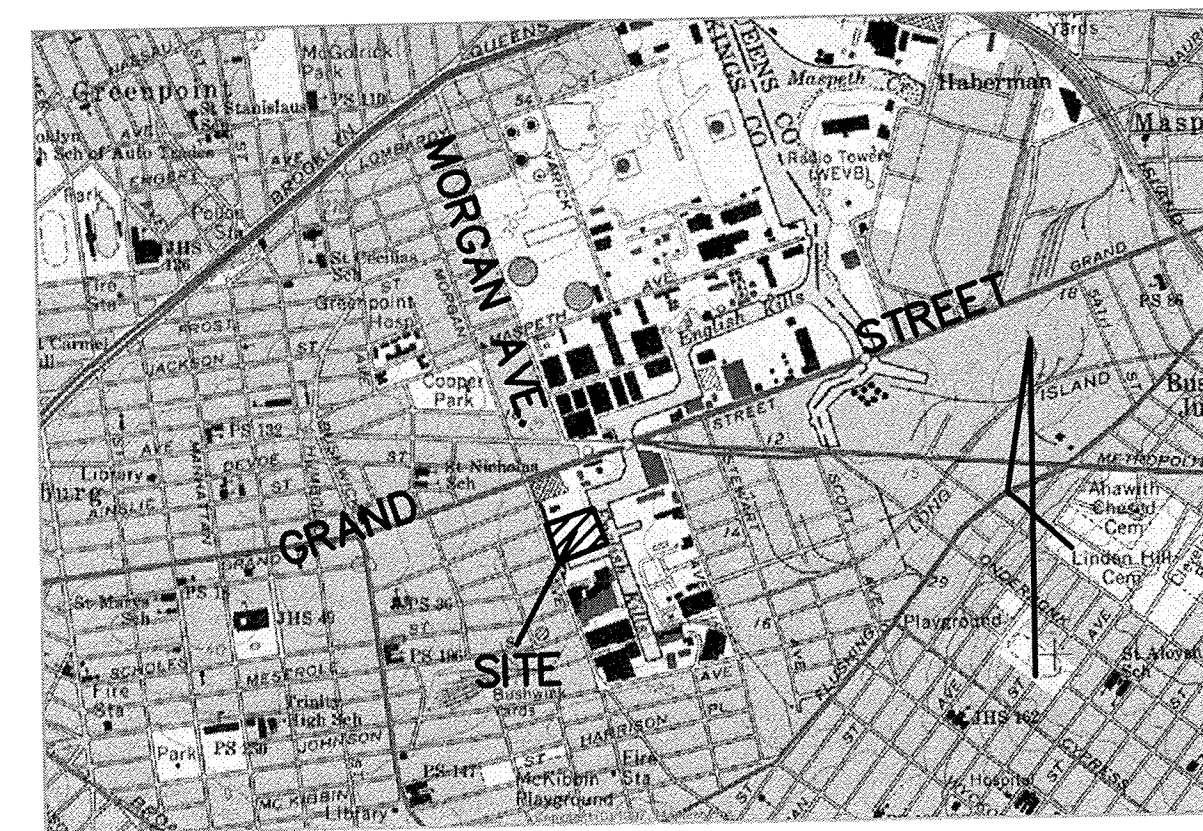
ENGINEERING / INSTITUTIONAL CONTROLS

- COMPLIANCE WITH THE ENVIRONMENTAL EASEMENT AND THIS SMP BY THE GRANTOR AND THE GRANTOR'S SUCCESSORS AND ASSIGNS;
- ALL ENGINEERING CONTROLS MUST BE OPERATED AND MAINTAINED AS SPECIFIED IN THIS SMP;
- ALL ENGINEERING CONTROLS ON THE CONTROLLED PROPERTY MUST BE INSPECTED AT A FREQUENCY AND IN A MANNER DEFINED IN THE SMP;
- GROUNDWATER, SOIL VAPOR AND OTHER ENVIRONMENTAL OR PUBLIC HEALTH MONITORING MUST BE PERFORMED AS DEFINED IN THE SMP;
- 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;
- THE USE AND DEVELOPMENT OF THE SITE IS LIMITED TO INDUSTRIAL USES ONLY.
 - THE PROPERTY MAY ONLY BE USED FOR A HIGHER LEVEL OF USE, SUCH AS UNRESTRICTED USE WITHOUT ADDITIONAL REMEDIATION AND AMENDMENT OF THE ENVIRONMENTAL EASEMENT, AS APPROVED BY THE NYSDEC;
 - ALL FUTURE ACTIVITIES ON THE PROPERTY THAT WILL DISTURB REMAINING CONTAMINATED MATERIAL MUST BE CONDUCTED IN ACCORDANCE WITH THIS SMP;
 - THE USE OF THE GROUNDWATER UNDERLYING THE PROPERTY IS PROHIBITED WITHOUT TREATMENT RENDERING IT SAFE FOR INTENDED USE;
 - THE POTENTIAL FOR VAPOR INTRUSION MUST BE EVALUATED FOR ANY BUILDINGS DEVELOPED IN THE AREA NOTED ON FIGURE 2-2, AND ANY POTENTIAL IMPACTS THAT ARE IDENTIFIED MUST BE MONITORED OR MITIGATED;
 - VEGETABLE GARDENS AND FARMING ON THE PROPERTY ARE PROHIBITED;
 - THE SITE OWNER OR REMEDIAL PARTY WILL SUBMIT TO NYSDEC A WRITTEN STATEMENT THAT CERTIFIES, UNDER PENALTY OF PERJURY, THAT: (1) CONTROLS EMPLOYED AT THE CONTROLLED PROPERTY ARE UNCHANGED FROM THE PREVIOUS CERTIFICATION OR THAT ANY CHANGES TO THE CONTROLS WERE APPROVED BY THE NYSDEC; AND, (2) NOTHING HAS OCCURRED THAT IMPAIRS THE ABILITY OF THE CONTROLS TO PROTECT PUBLIC HEALTH AND ENVIRONMENT OR THAT CONSTITUTE A VIOLATION OR FAILURE TO COMPLY WITH THE SMP.

THE ENGINEERING AND INSTITUTIONAL CONTROLS FOR THE EASEMENT ARE SET FORTH IN MORE DETAIL 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 MAY BE OBTAINED FROM THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, DIVISION OF ENVIRONMENTAL REMEDIATION, SITE CONTROL SECTION, 625 BROADWAY, ALBANY, NY 12233 OR AT DERWEB@GW.DEC.STATE.NY.US.

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.

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



1"=2000'

CERTIFIED TO:

THE PEOPLE OF THE STATE OF NEW YORK ACTING THROUGH THEIR COMMISSIONER OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, FIDELITY NATIONAL TITLE INSURANCE COMPANY, AND ROLLING FRITO-LAY SALES, LP

ENVIRONMENTAL EASEMENT AREA DESCRIPTION

BEGINNING AT A POINT OF THE EASTERLY SIDE OF MORGAN AVENUE, BEING 582.50' FROM THE SOUTHERN SIDE OF GRAND STREET;

THENCE (1): FROM SAID BEGINNING POINT, ALONG THE SOUTHERLY LINE OF LOT 1, BLOCK 2942, N72°28'00"E, A DISTANCE OF 489.00 FEET, TO A POINT ON THE UNITED STATES PIERHEAD & BULKHEAD LINE;

THENCE (2): ALONG THE UNITED STATES PIERHEAD & BULKHEAD LINE, S17°32'00"E, A DISTANCE OF 237.46 FEET, TO A POINT;

THENCE (3): LEAVING SAID PIERHEAD & BULKHEAD LINE, S72°28'00"W, A DISTANCE OF 400.00 FEET, TO A POINT;

THENCE (4): S17°32'00"E, A DISTANCE OF 50.00 FEET, TO A POINT, COMMON TO THE NORTHERLY LINE OF LOT 101, BLOCK 2942;

THENCE (5): ALONG SAID NORTHERLY LINE OF LOT 101, BLOCK 2942, S72°28'00"W, A DISTANCE OF 89.00 FEET, TO A POINT, ON THE EASTERLY LINE OF MORGAN AVENUE;

THENCE (6): ALONG SAID EASTERLY LINE OF MORGAN AVENUE, N17°32'00"W, A DISTANCE OF 287.50 FEET, TO THE POINT OF BEGINNING.

BEING AND INTENDING TO DESCRIBE A PORTION OF THAT PARCEL OF LAND CONVEYED TO ROLLING FRITO-LAY SALES, LP, A DELAWARE LIMITED PARTNERSHIP FROM GLORIA DEVELOPMENT CORP., BY DEED DATED APRIL 28, 2006 AND RECORDED ON MAY 4, 2006 IN CITY REGISTER FILE NO. (CORTA): 2006000226592 IN THE OFFICE OF THE CITY REGISTER OF THE CITY OF NEW YORK.

Consuling Engineers

Pennon

TELE 858 • 547 • 0500
FAX 858 • 547 • 8174
E-MAIL: haddonheights@pennon.com

515 Grove Street
Haddon Heights, N.J. 08035

Pennon Associates Inc.

LOTS 105,111 AND 112 BLOCK 2942
MORGAN AVENUE, BROUOH OF BROOKLYN
COUNTY OF KINGS, CITY AND STATE NEW YORK, 11206
ALTA/ACSM LAND TITLE SURVEY
ROLLING FRITO-LAY SALES, LP
BCP SITE No. C224133
AT
202-218 MORGAN AVE. BROOKLYN, NY

ALL DOCUMENTS PREPARED BY PENNONI ASSOCIATES ARE INSTRUMENTS OF SERVICE IN RESPECT OF THE PROJECT. THEY ARE NOT INTENDED OR REPRESENTED TO BE SUITABLE FOR REUSE BY OWNER OR OTHERS ON EXTENSIONS OF THE PROJECT OR ON ANY OTHER PROJECT. ANY REUSE WITHOUT WRITTEN VERIFICATION OR ADAPTATION BY PENNONI ASSOCIATES FOR THE SPECIFIC PURPOSE INTENDED WILL BE AT OWNERS SOLE RISK AND WITHOUT LIABILITY OR LEGAL EXPOSURE TO PENNONI ASSOCIATES, AND OWNER SHALL INDEMNIFY PENNONI ASSOCIATES FROM ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES ARISING OUT OF OR RESULTING THEREFROM.

JOB NO.
HASK-1201
SHEET 1 OF 1

SCALE
1"=30'
DRAWN BY
D.J.L.
DATE
4/25/12
APPROVED
DRAWING NO.
V0301

HASK-1201



PEPSICO



Tropicana



JOHN A. POAKEART

Legal Director
PepsiCo, Inc.
7701 Legacy Drive
Plano, TX 75024
Direct (972) 334-3995
john.poakeart@pepsico.com

September 27, 2013

Via Certified Mail

Mayor Michael R. Bloomberg
City Hall
New York, NY 10007

Re: Municipal Notice of Environmental Easement

Dear Mayor Bloomberg:

Attached please find a copy of an environmental easement granted to the New York State Department of Environmental Conservation ("DEC")

On: September 18, 2013,
By: Rolling Frito-Lay Sales, LP,
For property at: 202-218 Morgan Avenue, Brooklyn, New York,
Tax Map No.: Block 2942, Lots 112, 105, 111,
DEC Site No.: C224133.

The Environmental Easement contains institutional and/or engineering controls that run with the land. The Environmental Easement may restrict the use of the above referenced property to industrial.

Any activity on the land which might or will prevent or interfere with the ongoing or completed remedial program, including the controls as set forth in the Environmental Easement and the Site Management Plan, must be done in accordance with the Site Management Plan which is incorporated by reference into the Environmental Easement.

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 this environmental easement has been accepted by the New York State Department of Environmental Conservation and is available to the public at:
<http://www.dec.ny.gov/chemical/36045.html>.

If you have any questions or comments regarding this matter, please do not hesitate to contact me.

Very truly yours,


John A. Poakeart

Encl.

cc: Robert R. Kulikowski, Director, Mayor's Office of Environmental Coordination
Marty Marowitz, Brooklyn Borough President
Yvonne Ward, Esq., NYSDEC

STATE OF TEXAS)
)ss:
COUNTY OF COLLIN)

On the 27th day of September, 2013, before me, the undersigned, personally appeared John A. Poakeart, 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 executed the same in his capacity, 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

CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

3A-405	Postage	\$
5/5	Certified Fee	
	Return Receipt Fee (Endorsement Required)	
	Restricted Delivery Fee (Endorsement Required)	
	Total Postage & Fees	\$

Sent To Robert Kulikowski
Street, Apt. No.; Mayor's Office - Environmental Coord.
or PO Box No. 100 Gold St. - 2nd Floor
City, State, ZIP+4 New York, NY 10038

PS Form 3800, August 2006

See Reverse for Instructions

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

3A-405	Postage	\$
3/5	Certified Fee	
	Return Receipt Fee (Endorsement Required)	
	Restricted Delivery Fee (Endorsement Required)	
	Total Postage & Fees	\$

Sent To Yvonne Ward, Senior Attorney
Street, Apt. No.; NYS Dept of Environmental Conservation
or PO Box No. Office of General Counsel
City, State, ZIP+4 Albany, NY 12233-5520

PS Form 3800, August 2006

See Reverse for Instructions

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

3A-405	Postage	\$
1/5	Certified Fee	
	Return Receipt Fee (Endorsement Required)	
	Restricted Delivery Fee (Endorsement Required)	
	Total Postage & Fees	\$

Sent To Mayor Michael Bloomberg
Street, Apt. No.; City Hall
or PO Box No. New York, NY 10007

PS Form 3800, August 2006

See Reverse for Instructions

CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

3A-405	Postage	\$
3/5	Certified Fee	
	Return Receipt Fee (Endorsement Required)	
	Restricted Delivery Fee (Endorsement Required)	
	Total Postage & Fees	\$

Sent To Mayor Michael Bloomberg
Street, Apt. No.; City Hall
or PO Box No. New York, NY 10007

PS Form 3800, August 2006

See Reverse for Instructions

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

3A-405	Postage	\$
4/5	Certified Fee	
	Return Receipt Fee (Endorsement Required)	
	Restricted Delivery Fee (Endorsement Required)	
	Total Postage & Fees	\$

Sent To Marty Makowitz
Street, Apt. No.; Brooklyn Borough Hall
or PO Box No. 209 Jerusalem Street
City, State, ZIP+4 Brooklyn, NY 11201

PS Form 3800, August 2006

See Reverse for Instructions