

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of a Remedial Program for the
Flushing Industrial Park (Western) Parcel 2
College Point Avenue and 40th Road, Queens,
under Article 27, Title 14 of the Environmental
Conservation Law by Volunteer
C.E. Flushing, LLC

AMENDED
BROWNFIELD SITE
CLEANUP AGREEMENT

Index No. W2-1028-04-10
Site No. C241078

WHEREAS, C.E. Flushing, LLC, with offices located at 118-35 Queens Boulevard, Forest Hills, New York 11375, is currently participating in the Brownfield Cleanup Program relative to 13.48 acres of real property located NW Corner of College Point Avenue and 40th Road, Flushing, Queens County, 11375, at latitude 40.7574E and longitude -73.8337E, and designated Tax Block 5066, Lots 1, 79, and 91 (the "Property"); and

WHEREAS, the Site will be developed as four parcels, as designated on the map attached Exhibit "A" as Parcels "1", "2", "3", and "4"; and

WHEREAS, Brownfield Site Cleanup Agreement, Index No. W2-1028-04-10, for Site No. C241078, dated December 23, 2004 (the "BCA" or the "Agreement") is applicable to Parcel 2. A metes and bounds description of Site No. C241078 is attached as Exhibit "B"; and

WHEREAS, the BCA was amended on June 14, 2005 to add C.E. Flushing Parking, LLC; and C.E. Flushing Commercial West, LLC as Volunteers; and

WHEREAS, a certified application was submitted to the Department on January 8, 2007 to add Flushing Town Center III, LP and Allied Flushing Corporation, both are newly-formed affiliate entities of C.E. Flushing, LLC with a mailing address % Muss Development Corp., 118-35 Queens Boulevard, Forest Hills, New York 11375, as additional Volunteers to the BCA; and

WHEREAS, a certified revised application was submitted to the Department on March 1, 2007 to add Home Depot U.S.A., Inc., with offices located at 2455 Paces Ferry Road, NW Bldg. C-20, Atlanta, GA 30339, as an additional Volunteer to the BCA; and

WHEREAS, upon consideration of the factors enumerated in ECL 27-1407(8) and (9), the Department made a determination, based upon consideration of the applications to add the Additional Applicants, that such Additional Applicants are eligible to participate in the BCP as a Volunteer as defined in ECL 27-1405(1)(b),

NOW THEREFORE, in consideration of and in exchange for the mutual covenants and promises, the parties agree to the following:

1. Flushing Town Center III, LP; Allied Flushing Corporation; and Home Depot U.S.A., Inc. are added as Volunteers to the BCA; and

2. The Agreement, the June 14, 2005 Amendment, and this Amendment to the Agreement shall constitute the entire Agreement between the parties with all the terms and conditions of the Agreement, except as provided herein, remaining in full force and effect; and

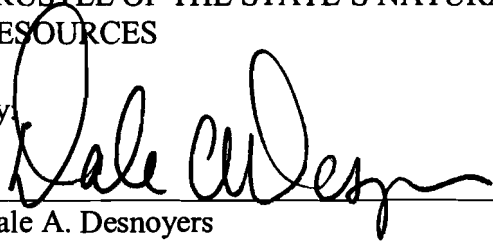
3. The effective date of the Amended Brownfield Site Cleanup Agreement shall be the date it is executed by the Commissioner or the Commissioner's designee.

DATED:

APR 9 2007

ALEXANDER B. GRANNIS
COMMISSIONER
NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION AND
TRUSTEE OF THE STATE'S NATURAL
RESOURCES

By:



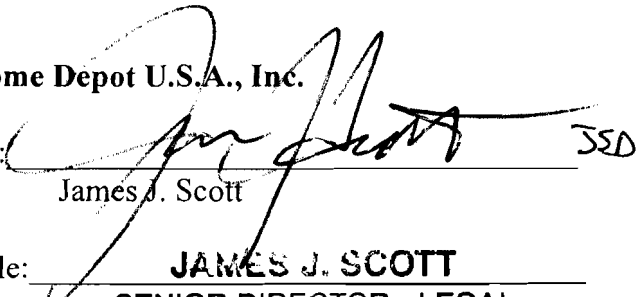
Dale A. Desnoyers
Director
Division of Environmental Remediation

CONSENT BY VOLUNTEER

Volunteer, **Home Depot U.S.A., Inc.**, hereby consents to the issuing and entering of this Agreement, waives Volunteer's right to a hearing herein as provided by law, and agrees to be bound by this Agreement.

Home Depot U.S.A., Inc.

By:

 SSD
James J. Scott

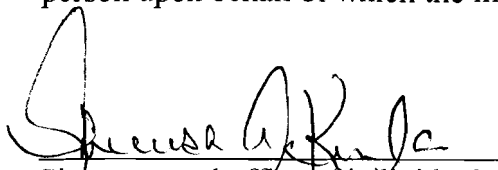
Title:

JAMES J. SCOTT
SENIOR DIRECTOR - LEGAL

Date: _____

STATE OF NEW JERSEY)
) s.s.:
COUNTY OF MIDDLESEX)

On the 13 day of MARCH, in the year 2007, before me, the undersigned, personally appeared JAMES J. SCOTT, 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.


Signature and office of individual taking acknowledgment

THERESA A. KINLAN
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 07/02/2009

CONSENT BY VOLUNTEER

Volunteer, **C.E. Flushing, LLC**, hereby consents to the issuing and entering of this Agreement, waives Volunteer's right to a hearing herein as provided by law, and agrees to be bound by this Agreement.

C.E. Flushing, LLC

By: _____
Joshua L. Muss

Title: Manager

Date: 3/23/07

STATE OF NEW YORK)
) s.s.:
COUNTY OF Queens)

On the 23rd day of March, in the year 2007, before me, the undersigned, personally appeared JOSHUA L. MUSS, 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.

Diana Niemes
Signature and office of individual
taking acknowledgment

DIANA NIEMES
Notary Public, State of New York
No. 01NI6125276
Qualified in Queens County
Commission Expires April 11, 2009

CONSENT BY VOLUNTEER

Volunteer, **C.E. Flushing Parking, LLC**, hereby consents to the issuing and entering of this Agreement, waives Volunteer's right to a hearing herein as provided by law, and agrees to be bound by this Agreement.

C.E. Flushing Parking, LLC

By: _____

Joshua L. Muss

Title: Manager

Date: 3/23/07

STATE OF NEW YORK)
) s.s.:
COUNTY OF Queens)

On the 23rd day of March, in the year 2007, before me, the undersigned, personally appeared JOSHUA L. MUSS, 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.

Diana Niemes
Signature and office of individual
taking acknowledgment

DIANA NIEMES
Notary Public, State of New York
No. 01NI6125276
Qualified in Queens County
Commission Expires April 11, 20 09

CONSENT BY VOLUNTEER

Volunteer, **C.E. Flushing Commercial West, LLC**, hereby consents to the issuing and entering of this Agreement, waives Volunteer's right to a hearing herein as provided by law, and agrees to be bound by this Agreement.

C.E. Flushing Commercial West, LLC

By: _____

Joshua L. Muss

Title: Manager

Date: 3/23/07

STATE OF NEW YORK)
) s.s.:
COUNTY OF Queens)

On the 23rd day of March, in the year 2007, before me, the undersigned, personally appeared JOSHUA L. MUSS, 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.

Diana Niemes

Signature and office of individual taking acknowledgment

DIANA NIEMES
Notary Public, State of New York
No. 01NI6125276
Qualified in Queens County
Commission Expires April 11, 2009

CONSENT BY VOLUNTEER

Volunteer, **Flushing Town Center III, LP**, hereby consents to the issuing and entering of this Agreement, waives Volunteer's right to a hearing herein as provided by law, and agrees to be bound by this Agreement.

Flushing Town Center III, LP

By: _____
Joshua L. Muss
Title: Manager
Date: 3/23/07

STATE OF NEW YORK)
) s.s.:
COUNTY OF Queens)

On the 23rd day of March, in the year 2007, before me, the undersigned, personally appeared JOSHUA L. MUSS, 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.

Diana Niemes
Signature and office of individual
taking acknowledgment

DIANA NIEMES
Notary Public, State of New York
No. 01NI6125276
Qualified in Queens County
Commission Expires April 11, 20 09

CONSENT BY VOLUNTEER

Volunteer, **Allied Flushing Corporation**, hereby consents to the issuing and entering of this Agreement, waives Volunteer's right to a hearing herein as provided by law, and agrees to be bound by this Agreement.

Allied Flushing Corporation

By: _____

Joshua L. Muss

Title: President

Date: 3/23/07

STATE OF NEW YORK)
COUNTY OF Queens) s.s.:

On the 23rd day of March, in the year 2007, before me, the undersigned, personally appeared JOSHUA L. MUSS, 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.

Diana Niemes
Signature and office of individual taking acknowledgment

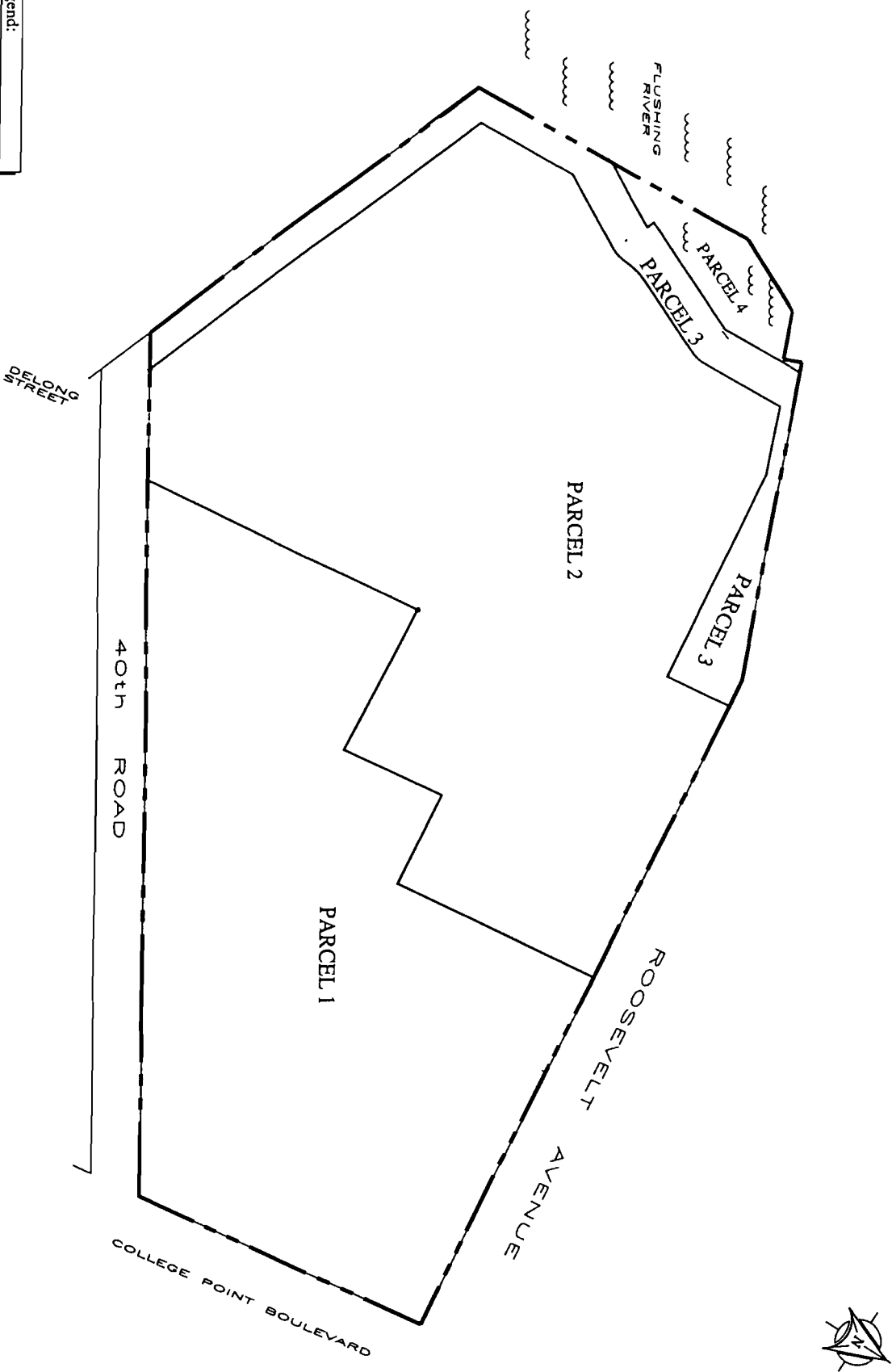
DIANA NIEMES
Notary Public, State of New York
No. 01NI6125276
Qualified in Queens County
Commission Expires April 11, 20 09

Exhibit "A"

Map

Legend:

- STATEMENT SITE BOUNDARY
- - - LOT BOUNDARY
- EXISTING BUILDING LINE



1	FIGURE NO.
	PROJECT NO. 30141
	SCALE 1"=100'
	DATE 02.15.06

FLUSHING INDUSTRIAL PARK PARCELS 1 TO 4
Flushing, New York

ATTACHMENT A - PARCEL BOUNDARIES

AKRF
Environmental Consultants
440 Park Avenue South, New York N.Y. 10016

Exhibit "B"

Metes and Bounds

Parcel boundaries do not correspond to tax map metes and bounds. The metes and bounds description for Parcel 2 is as follows:

Beginning at a point on the northwesterly side of 40th Road (50.0 feet wide); distant 734.88 feet, as measured along said northwesterly side of 40th Road, from the point formed by the intersection of said northwesterly side of 40th Road with the westerly side of College Point Boulevard (100.00 feet wide).

1. Running thence southwesterly along said northwesterly side of 40th Road 18.75 feet to a point.
2. Thence northwesterly forming an interior angle of 127 degrees 12 minutes 25 seconds and a distance of 416.00 feet to a point.
3. Thence northerly forming an interior angle of 113 degrees 31 minutes 09 seconds and a distance of 108.00 feet to a point.
4. Thence northeasterly forming an interior angle of 151 degrees 31 minutes 48 seconds and a distance of 90.00 feet to a point.
5. Thence northerly forming an exterior angle of 191 degrees 51 minutes 21 seconds and a distance of 39.97 feet to a point.
6. Thence northeasterly forming an interior angle of 168 degrees 08 minutes 39 seconds and a distance of 100.00 feet to a point.
7. Thence northerly forming an exterior angle of 208 degrees 28 minutes 12 seconds and a distance of 94.88 feet to a point.
8. Thence easterly forming an interior angle of 108 degrees 59 minutes 51 seconds and a distance of 74.39 feet to a point.
9. Thence easterly forming an interior angle of 164 degrees 42 minutes 05 seconds and a distance of 225.00 feet to a point.
10. Thence northerly and perpendicular to Roosevelt Avenue 70.00 feet to a point on the southerly side of Roosevelt Avenue (120.00 feet wide).
11. Thence along said southerly side of Roosevelt Avenue 307.00 feet to a point.
12. Thence southerly and perpendicular to said Roosevelt Avenue 222.00 feet to a point.
13. Thence westerly forming an interior angle of 90 degrees 00 minutes 00 seconds and a distance of 100.00 feet to a point.

14. Thence southerly forming an interior angle of 90 degrees 00 minutes 00 seconds and a distance of 108.00 feet to a point.
15. Thence westerly forming an interior angle of 90 degrees 00 minutes 00 seconds and a distance of 160.00 feet to a point.
16. Thence southerly forming an interior angle of 90 degrees 00 minutes 00 seconds and a distance of 299.40 feet to the point or place of beginning.