

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 13.6 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 and 100 (the "Property"); and

WHEREAS, the Property was originally described as containing 7.1 acres; and

WHEREAS, the Property will be developed as four parcels, designated as Parcels "1", "2", "3", and "4" on the map attached as Exhibit "A"; 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; 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, the BCA was further amended on April 9, 2006 to add Flushing Town Center III, L.P., Allied Flushing Corporation and Home Depot U.S.A., Inc. as Volunteers; and

WHEREAS, certified applications were submitted to the Department in August 2007 to add AFC2, LLC; FTC Residential Company I, L.P.; FTC Residential Company II, L.P.; FTC Residential Company III, L.P.; FTC East Retail Company, L.P.; and FTC West Retail Company, L.P. (collectively, the "Additional Applicants"), all newly-formed affiliate entities of C.E. Flushing, LLC with a mailing address c/o Muss Development Corp., 11835 Queens Boulevard, Forest Hills, New York 11375, as additional Volunteers 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 application 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); and

WHEREAS, the Volunteers have requested, and the Department has agreed, that the

Parcel boundaries be revised to reflect recent changes in the design of the redevelopment planned on the Property.

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

1. AFC2, LLC; FTC Residential Company I, L.P.; FTC Residential Company II, L.P.; FTC Residential Company III, L.P.; FTC East Retail Company, L.P.; and FTC West Retail Company, L.P. are added as Volunteers to the BCA; and

2. The Site is 6.99 acres in size and its boundaries are revised as reflected in the metes and bounds description attached hereto as Exhibit "B"; and

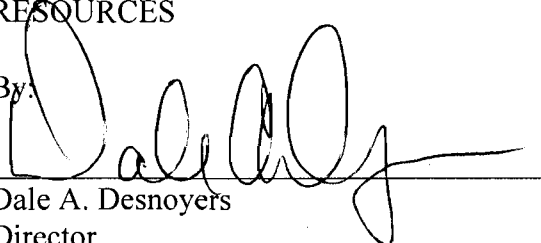
3. The Agreement, the June 14, 2005 Amendment, the April 9, 2007 Amendment and this Amendment to the Agreement shall constitute the entire Agreement between the parties with all the terms and conditions of the Agreement, except as provided herein, remaining in full force and effect; and

4. 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: NOV 29 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, **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: _____

Title: Manager

Date: 16 Nov. 2007

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

On the 16th day of November in the year 2007, before me, the undersigned,

personally appeared JUSTUA L. MUSS,
(Full name)

personally known to me who, being duly sworn, did depose and say that he/she/they reside at

118-35 Queens Blvd. Forest Hills, NY 11375
(Full mailing address)

and that he/she/they is (are) the Manager
(President or other officer or director or attorney in fact duly appointed)

of the Allied Flushing Corporation,
(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.

Diana Niemes
Notary Public, State of New York

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, L.P.**, 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, L.P.

By: _____

Title: Manager

Date: 16 NOV. 2007

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

On the 10th day of November in the year 2007, before me, the undersigned,

personally appeared JOSHUA L. MUSS,
(Full name)

personally known to me who, being duly sworn, did depose and say that he/she/they reside at

118-35 Queens Blvd, Forest Hills, NY 11375
(Full mailing address)

and that he/she/they is (are) the Manager
(President or other officer or director or attorney in fact duly appointed)

of the Flushing Town Center III, L.P.
(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.

Diana Niemes
Notary Public, State of New York

DIANA NIEMES
Notary Public, State of New York
No. 01Ni6125276
Qualified in Queens County
Commission Expires April 11, 2009

CONSENT BY VOLUNTEER

Volunteer, AFC2, 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.

AFC2, LLC

By: _____

Title: Manager

Date: 10 Nov. 2007

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

On the 10th day of November in the year 2007, before me, the undersigned,

personally appeared JOSHUA L. MUSS,
(Full name)

personally known to me who, being duly sworn, did depose and say that he/she/they reside at

118-35 Queens Blvd, Forest Hills, NY 11375
(Full mailing address)

and that he/she/they is (are) the Manager
(President or other officer or director or attorney in fact duly appointed)

of the AFC2, LLC,
(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.

Diana Niemes
Notary Public, State of New York

DIANA NIEMES
Notary Public, State of New York
No. 01N16125276
Qualified in Queens County
Commission Expires April 11, 2009

CONSENT BY VOLUNTEER

Volunteer, **FTC Residential Company I, L.P.**, 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.

FTC Residential Company I, L.P.

By: _____

Title: Manager

Date: 16 Nov. 2007

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

On the 16th day of November in the year 2007, before me, the undersigned,

personally appeared JUSTUA L. MASS,
(Full name)

personally known to me who, being duly sworn, did depose and say that he/she/they reside at
118-35 Queens Blvd. Forest Hills, NY 11375
(Full mailing address)

and that he/she/they is (are) the Manager
(President or other officer or director or attorney in fact duly appointed)

of the FTC Residential Company I, L.P.
(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.

Diana Niememes
Notary Public, State of New York

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

CONSENT BY VOLUNTEER

Volunteer, **FTC Residential Company II, L.P.**, 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.

FTC Residential Company II, L.P.

By: _____

Title: Manager

Date: 16 Nov. 2007

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

On the 16th day of November in the year 2007, before me, the undersigned,

personally appeared JUSTHUA L. NUSS,
(Full name)

personally known to me who, being duly sworn, did depose and say that he/she/they reside at
118-35 Queens Blvd Forest Hills NY 11375
(Full mailing address)

and that he/she/they is (are) the Manager
(President or other officer or director or attorney in fact duly appointed)

of the FTC Residential Company II, L.P.
(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.

Diana Niemes
Notary Public, State of New York

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

CONSENT BY VOLUNTEER

Volunteer, **FTC Residential Company III, L.P.**, 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.

FTC Residential Company III, L.P.

By: _____

Title: Manager

Date: 16 Nov. 2007

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

On the 16th day of November in the year 2007, before me, the undersigned,

personally appeared JOSHUA K. MUSS,
(Full name)

personally known to me who, being duly sworn, did depose and say that he/she/they reside at
118-35 Queens Blvd, Forest Hills, NY 11375
(Full mailing address)

and that he/she/they is (are) the Manager
(President or other officer or director or attorney in fact duly appointed)

of the FTC Residential Company III, L.P.
(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.

Diana Niemes
Notary Public, State of New York

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

CONSENT BY VOLUNTEER

Volunteer, **FTC East Retail Company, L.P.**, 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.

FTC East Retail Company, L.P.
By: _____
Title: Manager
Date: 11th Nov. 2007

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

On the 11th day of November in the year 2007, before me, the undersigned,

personally appeared JOSHUA L. MUSS,
(Full name)

personally known to me who, being duly sworn, did depose and say that he/she/they reside at

118-35 Queens Blvd. Forest Hills, NY 11375
(Full mailing address)

and that he/she/they is (are) the Manager
(President or other officer or director or attorney in fact duly appointed)

of the FTC East Retail Company, L.P.
(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.

Diana Niemes
Notary Public, State of New York

DIANA NIEMES
Notary Public, State of New York
No. 01N16125276
Qualified in Queens County
Commission Expires April 11, 2009

CONSENT BY VOLUNTEER

Volunteer, **FTC West Retail Company, L.P.**, 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.

FTC West Retail Company, L.P.

By: _____

Title: Manager

Date: 10 Nov. 2007

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

On the 10th day of November in the year 2007, before me, the undersigned, personally appeared JOSHUA L. MUSS,
(Full name)

personally known to me who, being duly sworn, did depose and say that he/she/they reside at 118-35 Queens Blvd., Forest Hills, NY 11375
(Full mailing address)

and that he/she/they is (are) the Manager
(President or other officer or director or attorney in fact duly appointed)

of the FTC West Retail Company, L.P.
(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.

Diana Niemes
Notary Public, State of New York

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

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: _____

Title: _____

Date: _____

JAMES J. SCOTT

SENIOR DIRECTOR - LEGAL

311

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

On the 16 day of NOVEMBER in the year 2007, before me, the undersigned,

personally appeared _____,

JAMES J. SCOTT
(Full name)

personally known to me who, being duly sworn, did depose and say that he/she/they reside at _____

(Full mailing address)

and that he/she/they is (are) the _____

SR. DIRECTOR - LEGAL
(President or other officer or director or attorney in fact duly appointed)

of the _____

HOME DEPOT USA, INC.
(Full legal name or 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.

Theresa A. Kinlan
Notary Public, State of New Jersey

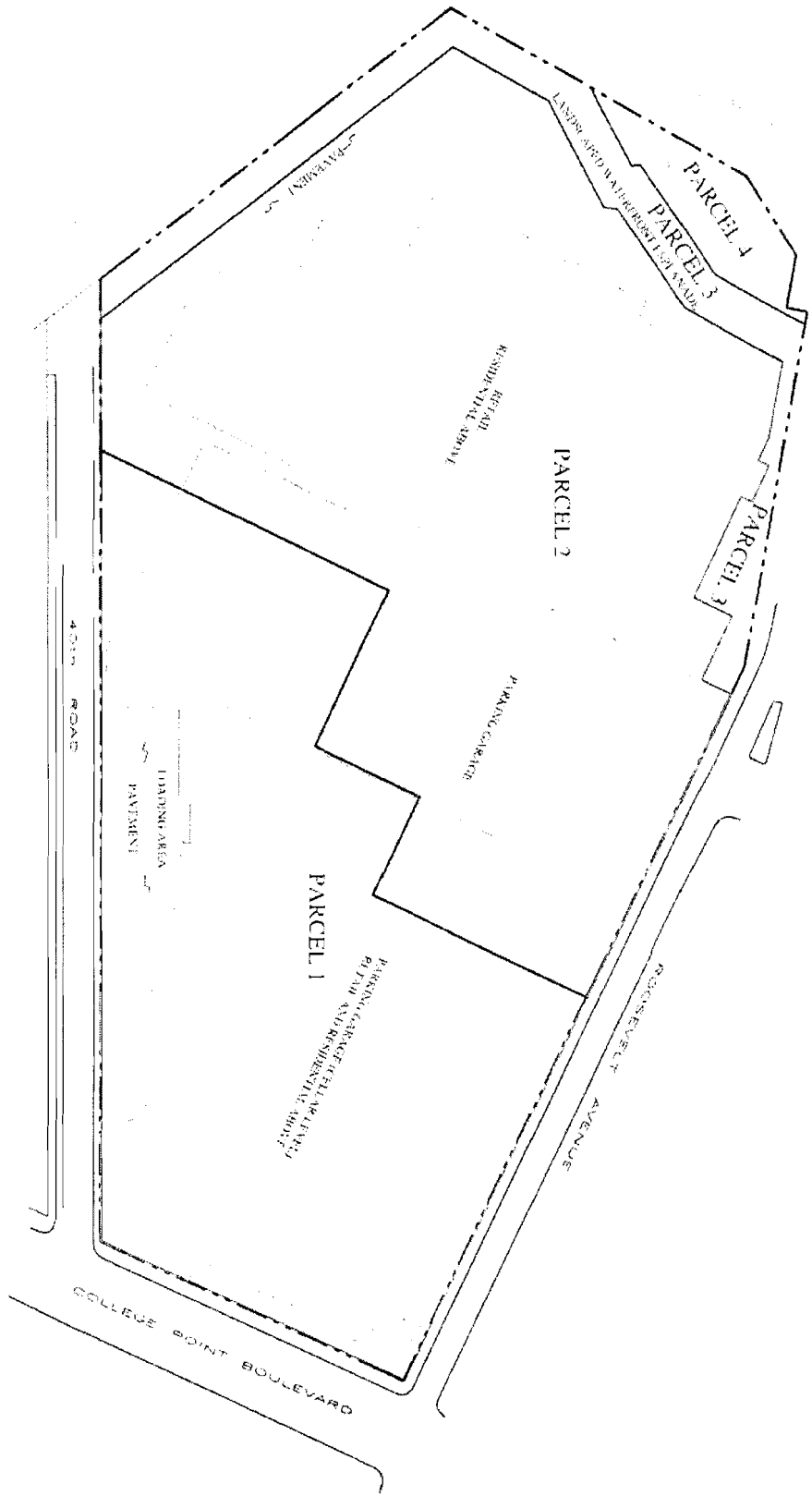
THERESA A. KINLAN
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 07/02/2009

Exhibit "A"

Map

Legend:

- PLANNED DEVELOPMENT
- PARCEL BOUNDARY
- PROPERTY BOUNDARY



3	DATE	11.09.07
	SCALE	1"=100'
PROJECT NO.	30141	
FLUSHING INDUSTRIAL PARK, PARCELS 1 - 4 Flushing, New York		
PLANNED DEVELOPMENT		
AKRF		Environmental Consultants 440 Park Avenue South, New York, N.Y. 10014

Exhibit "B"

Metes and Bounds

TECHNICAL DESCRIPTION

Beginning at a point on the northwesterly side of 40th Road (50.0 feet wide); distant 734.88 feet westerly, 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). Said point of beginning is further being described as having coordinate values of LATITUDE 40-45'-21.3" and LONGITUDE 73-50'-10.45"

- 1) Running thence southwesterly along said northwesterly side of 40th Road 118.75 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 101.23 feet to a point.
- 4) Thence northeasterly forming a interior angle of 147 degrees 03 minutes 18 seconds and a distance of 60.55 feet to a point.
- 5) Thence northeasterly forming an exterior angle of 179 degrees 15 minutes 06 seconds and a distance of 50.79 feet to a point.
- 6) Thence northwesterly forming an exterior angle of 122 degrees 57 minutes 53 seconds and a distance of 11.70 feet to a point.
- 7) Thence northeasterly forming an exterior angle of 230 degrees 43 minutes 11 seconds and a distance of 54.00 feet to a point.
- 8) Thence northeasterly forming an exterior angle of 181 degrees 19 minutes 37 seconds and a distance of 56.13 feet to a point.
- 9) Thence northerly forming an exterior angle of 153 degrees 30 minutes 11 seconds and a distance of 40.55 feet to a point.
- 10) Thence northerly forming an exterior angle of 178 degrees 45 minutes 42 seconds and a distance of 40.77 feet to a point.
- 11) Thence northerly forming an exterior angle of 178 degrees 13 minutes 03 seconds and a distance of 23.97 feet to a point.
- 12) Thence northeasterly forming an exterior angle of 253 degrees 19 minutes 59 seconds and a distance of 70.67 feet to a point.

- 13) Thence easterly forming an exterior angle of 195 degrees 08 minutes 51 seconds and a distance of 23.39 feet to a point.
- 14) Thence northerly forming an exterior angle of 90 degrees 07 minutes 49 seconds and a distance of 10.67 feet to a point.
- 15) Thence easterly forming an exterior angle of 270 degrees 00 minutes 00 seconds and a distance of 37.33 feet to a point.
- 16) Thence southerly forming an exterior angle of 270 degrees 00 minutes 00 seconds and a distance of 10.72 feet to a point.
- 17) Thence easterly forming an exterior angle of 90 degrees 00 minutes 00 seconds and a distance of 103.16 feet to a point.
- 18) Thence northerly forming an exterior angle of 90 degrees 00 minutes 00 seconds and a distance of 39.38 feet to a point.
- 19) Thence easterly forming an exterior angle of 270 degrees 00 minutes 00 seconds and a distance of 66.31 feet to a point.
- 20) Thence northerly and perpendicular to Roosevelt Avenue 30.50 feet to a point on the southerly side of Roosevelt Avenue (120.00 feet wide)
- 21) Thence along said southerly side of Roosevelt Avenue 309.03 feet to a point.
- 22) Thence southerly and perpendicular to said Roosevelt Avenue 222.00 feet to a point.
- 23) Thence westerly forming an interior angle of 90 degrees 00 minutes 00 seconds and a distance of 100.00 feet to a point.
- 24) Thence southerly forming an exterior angle of 90 degrees 00 minutes 00 seconds and a distance of 108.00 feet to a point.
- 25) Thence westerly forming an interior angle of 90 degrees 00 minutes 00 seconds and a distance of 160.00 feet to a point.
- 26) Thence southerly forming an exterior angle of 90 degrees 00 minutes 00 seconds and a distance of 299.40 feet to the point or place of beginning.