

FPM Group, Ltd.
FPM Engineering Group, P.C.
formerly Fanning, Phillips and Molnar

CORPORATE HEADQUARTERS
909 Marconi Avenue
Ronkonkoma, NY 11779
631/737-6200
Fax 631/737-2410

VIA MAIL AND EMAIL

September 21, 2009

Mr. Vadim Brevdo, P.E.
New York State Department of Environmental Conservation
Division of Environmental Remediation
47-40 21st Street
Long Island City, NY 11101-5407

Re: **Filed Deed Restriction**
90-30 Metropolitan Avenue, Rego Park, Queens, NY
NYSDEC Site V00253-2
FPM File No. 788-05-07

Dear Vadim:

In accordance with our discussion, enclosed please find a copy of the filed deed restriction for the above-referenced site. We understand that you will now forward the approval documentation for the Final Engineering Report (FER) and Operation, Monitoring and Maintenance (OM&M) Plan for this site to the New York State Department of Environmental Conservation (NYSDEC) Albany Office for their approval. As discussed, we have previously provided draft versions of the approval documentation for your use.

Please note that the FER and OM&M Plan are in draft (redline) form. Upon notification from you, we will provide final copies of these documents. Please contact me if you have any questions or need additional information.

Very truly yours,



Stephanie O. Davis
Senior Hydrogeologist
Department Manager

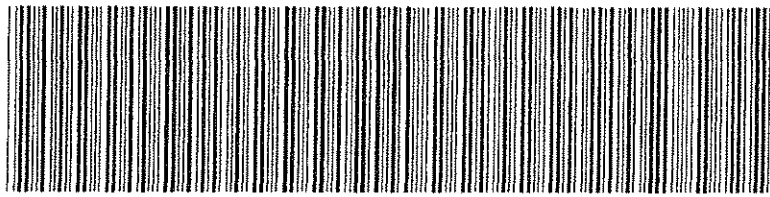
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Enclosure

cc: Jennifer Lee w/enclosure

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**NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER**

This page is part of the instrument. The City Register will rely on the information provided by you on this page for purposes of indexing this instrument. The information on this page will control for indexing purposes in the event of any conflict with the rest of the document.



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RECORDING AND ENDORSEMENT COVER PAGE

PAGE 1 OF 4

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Document Date: 09-08-2009

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PRESENTER:

HOLD FOR DENNISE A. TO PICK UP
ADVANTAGE TITLE REC 10824
410 NEW YORK AVENUE
HUNTINGTON, NY 11743
631-424-6100
mschantz@advantagetitle.com

RETURN TO:

HOLD FOR DENNISE A. TO PICK UP
ADVANTAGE TITLE REC 10824
410 NEW YORK AVENUE
HUNTINGTON, NY 11743
631-424-6100
mschantz@advantagetitle.com

PROPERTY DATA

Borough	Block	Lot	Unit	Address
QUEENS	3884	34	Entire Lot	90-30 METROPOLITAN AVENUE
Property Type: COMMERCIAL REAL ESTATE				

CROSS REFERENCE DATA

CRFN _____ or Document ID _____ or _____ Year _____ Reel _____ Page _____ or File Number _____

PARTIES

PARTY 1:

DPSW FOREST HILLS LLC
131 JERICHO TURNPIKE, SUITE 101
JERICHO, NY 11753

FEES AND TAXES

Mortgage		Filing Fee:	
Mortgage Amount:	\$ 0.00		\$ 0.00
Taxable Mortgage Amount:	\$ 0.00	NYC Real Property Transfer Tax:	
Exemption:			\$ 0.00
TAXES: County (Basic):	\$ 0.00	NYS Real Estate Transfer Tax:	
City (Additional):	\$ 0.00		\$ 0.00
Spec (Additional):	\$ 0.00		
TASF:	\$ 0.00		
MTA:	\$ 0.00		
NYCTA:	\$ 0.00		
Additional MRT:	\$ 0.00		
TOTAL:	\$ 0.00		
Recording Fee:	\$ 52.00		
Affidavit Fee:	\$ 0.00		



**RECORDED OR FILED IN THE OFFICE
OF THE CITY REGISTER OF THE
CITY OF NEW YORK**

Recorded/Filed 09-11-2009 16:05

City Register File No. (CRFN):

2009000294516

Annette McHill

City Register Official Signature

DECLARATION of COVENANTS and RESTRICTIONS

THIS COVENANT, made the 8th day of September, 2009, by a limited liability company organized and existing under the laws of the State of New York and having an office for the transaction of business at 131 Jericho Turnpike, Suite 101, Jericho, NY 11753.

WHEREAS, DPSW Forest Hills LLC^{*} is the subject of a Voluntary Agreement executed by Titan Management LP as part of the New York State Department of Environmental Conservation's (the "Department's") Voluntary Cleanup Program, namely that parcel of real property located at 90-30 Metropolitan Avenue, Forest Hills, in the County of Queens, State of New York, which is part of lands conveyed by Metraford, LLC to DPSW Forest Hills LLC by deed dated December 9, 2004 and recorded in the City of New York County Clerk's Office on February 10, 2005 described in Appendix "A", attached to this declaration and made a part hereof, and hereinafter referred to as "the Property"; and

WHEREAS, the Department approved a remedy to eliminate or mitigate all significant threats to the environment presented by the contamination disposed at the Property and such remedy requires that the Property be subject to restrictive covenants.

NOW, THEREFORE, DPSW Forest Hills LLC, for itself and its successors and/or assigns, covenants that:

First, the Property subject to this Declaration of Covenants and Restrictions consists of the property described in Appendix "A".

Second, the owner of the Property shall prohibit the Property from ever being used for purposes other than for a commercial or industrial use as defined at 6 NYCRR Section 375-1.8(g)(2)(iii) and (iv) without the express written waiver of such prohibition by the New York State Department of Environmental Conservation or, if the Department shall no longer exist, any New York State agency or agencies subsequently created to protect the environment of the State and the health of the State's citizens, hereinafter referred to as "the Relevant Agency."

Third, the owner of the Property shall prohibit the use of the groundwater underlying the Property without treatment rendering it safe for drinking water or industrial purposes, as appropriate, unless the user first obtains permission to do so from the Relevant Agency.

Fourth, the owner of the Property shall continue in full force and effect any institutional and engineering controls required under the Agreement and maintain such controls unless the owner first obtains permission to discontinue such controls from the Relevant Agency.

Fifth, this Declaration is and shall be deemed a covenant that shall run with the land and shall be binding upon all future owners of the Property, and shall provide that the



APPENDIX "A"

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough and County of Queens, City and State of New York, bounded and described as follows:

BEGINNING at the corner formed by the intersection of the present southerly side of Metropolitan Avenue (as distinguished from the proposed southerly side of Metropolitan Avenue) with the southwesterly side of Trotting Course Lane as said Lane is presently laid out on the Final Maps of the City of New York, for the Borough of Queens, to an irregular width;

RUNNING THENCE southeasterly along a line forming an interior angle of 132 degrees 01 minutes 57 seconds with the said present southerly side of Trotting Course Lane, 279.94 feet to a point of curve in said Lane, said curve connecting the southwesterly side of said Lane with the northwesterly side of 73rd Avenue, as also laid out on said Final Maps;

THENCE along said curve north (having a radius of 30 feet the center of which lies to the west) southeasterly, southerly and westerly and bearing to the right, a distance of 45.29 feet to a point of tangency on the northwesterly side of 73rd Avenue;

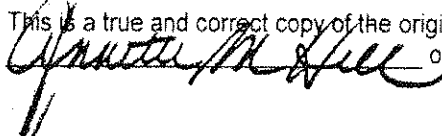
THENCE southwesterly along the said northwesterly side of 73rd Avenue, 113.42 feet to an angle in said 73rd Avenue on the northerly side of thereof;

THENCE westerly along the said northwesterly side of 73rd Avenue, 167.77 feet;

THENCE in a northerly direction along a line forming an interior angle of 92 degrees 57 minutes 25 seconds with the said northerly side of 73rd Avenue, 291.06 feet;

THENCE northerly along a line forming an interior angle of 162 degrees 05 minutes 58 seconds with the proceeding course, 95.28 feet to the said present southerly side of Metropolitan Avenue;

THENCE easterly along the said side of Metropolitan Avenue, 143.16 feet to the corner first mentioned, at the point or place of BEGINNING.

This is a true and correct copy of the original document recorded in the Office of the City Register of New York as attested by
 on the 14th day of September, 2009. (not valid unless signed and dated)