

**THEODORE ROOSEVELT INN OF COURT**

# Commercial Real Estate Transactions From Term Sheet To Closing:

Zoning, Environmental, and Financial Considerations

**Nassau County Bar Association  
Wednesday, February 4, 2015  
5:30-8:00 p.m.**

Presenters:

Richard Eisenberg, Esq.  
Hon. Marilyn K. Genoa  
Hon. John Reali  
Vijay Gogia, Touro Law School, 1L  
Maryam Nayibova, Hofstra Law School 1L  
Debbie Schleider, Touro Law School 1L  
Hon. Edward A. Ambrosino  
Richard M. Bivone  
Ken Brooks, P.E.  
Richard D. Galli, P.E.

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JOHN P. REALI

BA Political Science, Queens College 1957; LLB St. University Law School 1961; US Marine Corps Reserves, 1957-1963; Admitted to practice Appellate Division, Second Department 1961; Admitted to practice in U.S. District Court, Eastern District 1965; Member of the Nassau County Bar Association, New York State Bar Association, Columbian Lawyers Association of Nassau County, Nassau County Magistrates Association, American Justinian Society of Jurists and New York State Magistrates Association

Former Director (two terms), Nassau County Bar Association; Past President, Columbian Lawyers Association of Nassau County; Past President, Nassau County Magistrates Association; Secretary, American Justinian Society of Jurists; Former Director of the Nassau Suffolk Law Services Committee; Past Chairman of Real Property Law Committee, Past Chairman Military Law Committee, Past Chairman of Computer Committee; Member of Grievance Committee, Nassau County Bar Association; Member, Theodore Roosevelt Inns of Court; Nassau County Bar Association's Pro Bono Attorney of the Month for February, 2011; New York State Pro Bono Attorney for Nassau/Suffolk Counties, 1994; Nassau Bar Association Mentor, Hempstead Middle School, 1994-1999 ; Co-ordinator and mentor, Jericho Middle School 1999-present. Former member of the Nassau Bar Association Nominating Committee. Member of Elder Law and Trusts and Estates Committee

Organizer of the Veterans Legal Advocacy Project at NCBA

Originator, along with Ed Aulman, former Director of Nassau County Veterans Service Agency) of the creation of a Veterans Court in Nassau County.

Recipient of the Hon. Frank J. Santagata award, from the Nassau County Magistrates Association, for ethics, professionalism and devotion to justice.

Participant in NCBA Foreclosure Clinic and Super Storm Sandy Clinic; Volunteer lawyer of the day at Volunteer Lawyers Project in Hempstead Landlord Tenant Court.

Trustee, Village of Sea Cliff 1980-1990; Deputy Mayor 1987-1990

Sea Cliff Village Justice, 1990 to present.

Law Offices located at 410 Jericho Turnpike, Jericho, N.Y. 11753

Marilyn K. Genoa  
Genoa & Associates, P.C.  
12 Jaegger Drive  
Old Brookville, New York 11545  
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Marilyn K. Genoa is a principal of the Law Firm of Genoa & Associates, P.C., concentrating in the areas of commercial real estate, small and closely-held business representation and alternate dispute resolution. She is a member of the Commercial Mediation Panel, Nassau County Commercial Division and the Nassau County Bar Association's Alternative Dispute Resolution Mediation Tribunal Panel and the Eastern District of New York Storm Sandy Mediation Panel. She serves as an Arbitrator under the New York State's Part 137 Attorney's Fee Dispute Resolution Program and mediator for Landlord Tenant disputes for pro se litigants in Landlord/Tenant Part District Court Nassau County.

A Director of the Nassau County Bar Association, she sits on its WE CARE Advisory Board and is a Delegate to the New York State Bar Association. The immediate past chair of the Nassau County Bar Association's Alternative Dispute Resolution section, she is a former chair of the Business and Corporation Committee as well as the Animal Law and the House Committees. Marilyn has co-chaired the Nassau County Bar Association's Mock Trial Program for the past 9 years.

The elected Village Justice for the Village of Old Brookville, she is a member of the Board of Directors for the Nassau County Magistrate's Association. Prior to being elected Village Justice she was a Trustee of the Village and a former Deputy Police Commissioner for the Old Brookville Police Department.

A past president of the Theodore Roosevelt American Inn of Court and of Yashar, the Attorneys' and Judges' Chapter of Hadassah, she continues to actively serve on the Board of Directors of both organizations, as well as on the Board of the Safe Center LI (formerly the Nassau County Coalition Against Domestic Violence).

Marilyn is admitted to practice in the Courts of the State of New York, the United States District Courts for the Eastern and Southern Districts of New York, and the Supreme Court of the United States of America. She received her law degree, cum laude, from Hofstra University School of Law, her B.A. from Boston University, and an MSW from Adelphi University. She lectures in the areas of: mediation; business formation; purchase and sale of businesses and of real property; and contract law. The former CEO of a national manufacturing and distribution company, Marilyn's pragmatic approach to problem solving has enabled her to effectively represent her clients with regard to complex real estate and corporate matters and to assist them in finding successful solutions to often difficult and diverse situations.

# MEYER, SUOZZI, ENGLISH & KLEIN, P.C.

## COUNSELORS AT LAW

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### Richard Eisenberg

Since January 2008, Richard Eisenberg has been Of Counsel to Meyer, Suozzi, English & Klein, P.C. located in Garden City, Long Island, N.Y., practicing in the Corporate law, Corporate Finance, Real Estate and Litigation and Dispute Resolution practices. Mr. Eisenberg has a broad range of litigation experience in areas including contracts, securities fraud, RICO, anti-trust, land title matters, patent infringement, insurance coverage disputes, construction claims, corporate valuations and criminal matters. He has conducted jury and non-jury trials to verdict, as well as arbitrations and mediations, in the State and Federal courts throughout the New York metropolitan area. His appellate practice includes appearances before the Appellate Division, Second Department, the New York State Court of Appeals, the Second Circuit Court of Appeals and the United States Supreme Court. In his transactional work, Mr. Eisenberg has counseled clients in corporate reorganizations, internal investigations, bankruptcy, real estate financing, contracts, deferred compensation programs, intellectual property matters, mergers and acquisitions, tax matters, environmental compliance and the selection and supervision of outside counsel and accountants.

Notable experience includes:

- In his real estate development and construction practice, has served

Corporate Law

Corporate Finance

Real Estate Law

Litigation & Dispute Resolution

Alternative Dispute Resolution

**Position**  
Of Counsel

**Education**  
Boston University Law School,  
J.D., 1976

University of Rochester, B.A.,  
1973

**Memberships**  
Nassau County Bar Association

Theodore Roosevelt Inn of  
Court

Alexander Hamilton Inn of  
Court

United States District Court,  
Eastern District of New York  
Mediation Panel

Novare Group Holdings, LLC,  
Corporate Advisory Board

Usdan Center for the Creative  
and Performing Arts, Board of  
Trustees

Touro Law Center Institute For  
Land Use and Sustainable  
Development Advisory Board  
Member

**Admissions**  
New York State

U.S. Supreme Court

U.S. District Court, Southern  
and Eastern Districts of New

as the owner's representative or project executive on approximately 100 million dollars of completed projects, both public and private. For these projects, he was responsible for land acquisition, planning, zoning, commercial and retail leasing, mortgage lending, property management, construction agreements and supervision of architects, engineers and contractors.

- Serves as General Counsel to a privately held real estate investment and development corporation on Long Island, managing a portfolio of retail, office, industrial and residential properties, as well as equity investments in a wide range of properties. His legal work includes project development, zoning, environmental compliance, financing, property purchases and sales, leasing, construction contracts, property management, due diligence investigations and review of private placement offerings.
- Serves as the Executive Secretary to a major private family charitable foundation on Long Island in which he is responsible for grant-making and administration and direct reporting to the foundation trustees.
- From 1984-2005 he was a member of the Valley Stream, New York Board of Education. During that period he served several terms as Board President. He worked closely with school district attorneys regarding litigation matters on behalf of the school district, and was responsible for the supervision of a multimillion dollar bond issue for school construction and renovation. In addition, Mr. Eisenberg served as the employer's

York

U.S. Tax Court

Second Circuit of Appeals

**News**

Click here for news about Richard Eisenberg

**Events**

Click here for events associated with Richard Eisenberg

representative for the negotiation of public employee contracts over a 14 year period.

- Previously served as General Counsel to a privately held corporation with interests in military manufacturing, software consulting and sales of aeronautical parts and services. In that position, he managed mergers and acquisitions, corporate finance, government contracts, regulatory compliance and the supervision of litigation throughout the United States.

Mr. Eisenberg began his career as a Kings County Assistant District Attorney, where he prosecuted felony cases including homicides and public corruption matters. During part of his tenure as an Assistant DA, he was assigned to the Office of the Special Narcotics Prosecutor for the City of New York from 1977 to 1978.

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## MARYAM NAYIBOVA

125 Bayside Avenue, Copiague, NY 11726  
(917) 231-4197 · maryamn23@gmail.com

### EDUCATION

**Maurice A. Deane School of Law at Hofstra University**, Hempstead, NY  
*Juris Doctor Candidate*, May 2017

**University of Washington**, Bothell, WA  
*Bachelor of Arts in Global Studies*, March 2011  
GPA: 3.5  
Honors: Dean's List

**Bellevue College**, Bellevue, WA  
*Associates of Arts and Sciences*, June 2008  
GPA 3.0

### EXPERIENCE

**Ameriprise Financial**, Melville, NY  
*Client Service Manager*, September 2014 - Present  
Assist advisors with office tasks, calling clients, and placing trades.

**Cushman and Wakefield**, Hartford, CT  
*Administrative Assistant*, August 2011 - August 2014  
Prepared and edited marketing materials, drafted and edited proposals, and assisted brokers with day-to-day administrative tasks.

**Evergreen Hospital**, Kirkland, WA  
*Diagnostic Imaging Scheduler*, March 2008 - August 2011  
Managed and updated procedure schedules, coordinated complex procedures with various departments, answered phones and scheduled diagnostic imaging appointments.

**Group Health Cooperative**, Redmond, WA  
*Patient Care Representative*, March 2007 - January 2008  
Coordinated mobile MRI department, scheduled radiology exams, answered phones, and attended monthly staff meetings.

### LANGUAGES AND INTERESTS

Fluent in Russian; Conversational in Turkish. Food blogger; Classical Literature.



# Vijay Gogia

15 Center Drive, Roslyn, NY, 11576  
516.426.6656 | [vjgogia@gmail.com](mailto:vjgogia@gmail.com)

## EDUCATION

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Touro College Jacob D. Fuchsberg Law Center, *Candidate for J.D., May 2017* Central Islip, NY  
GPA: 3.71 Aug. '14 - Present  
Activities: Business Law Society, Inns of Court, and the Real Estate Club

Boston University, *School of Management* Boston, MA  
Bachelor of Science in Business Administration Sept. '07 - May '11  
Relevant Coursework: Capital Markets, Corporate Finance, Financial Accounting, and Real Estate Finance

## EXPERIENCE

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Massey Knakal, *Commercial Mortgage Broker – Manhattan, NY* June '13 - Feb. '14

- Created Confidential Offering Memorandums for projects requiring mortgage and equity financing for commercial real estate properties located in New York
- Arranged a 3 year \$85 MM bridge loan for a hotel located in New York City
- Arranged a 7 year \$4 MM mortgage for an office building in New York City
- Arranged a 7 year \$4 MM mortgage for a mixed-use building in Brooklyn

Emerald Creek Capital, *Associate – Manhattan, NY* May '12 – Apr. '13

- Originated and closed \$2 MM Acquisition and Construction loan in 14 business days
- Underwrote and structured eight investment memorandums that were presented to the investment committee aggregating to a gross loan amount of \$35 MM
- Conducted due diligence of loans in legacy portfolio, on-site inspections, compliance with tax bills, and interest payment collection
- Formed business relationships and processed incoming loan requests from mortgage brokers across country

Gogia Equities, *Associate – Roslyn, NY* Nov. '11 - May '12

- Asset manager for portfolio of six triple-net leased retail properties located in NY, NJ, and PA
- Executed marketing and distribution strategy for India-based Chateau D'Oré winery, resulting in 130% sales increase (while living in Shanghai for 2 months)
- Underwrote and structured acquisitions of multi-family, retail, and office properties located in the tri-state area in the \$1-10 MM

Real Capital Analytics (RCA), *Capital Markets Analyst – New York, NY* June '11 - Nov. '11

- Utilized Bloomberg Terminal to research CMBS issuances and evaluate property level financials
- Analyzed real estate transactions in weekly periodicals, such as Commercial Mortgage Alert, Real Estate Alert, and Real Estate Weekly, to update database and uncover market trends

The Grossman Companies, *Asset Mgmt. & Private Lending Intern – Quincy, MA* June '10 - Aug. '10

- Underwrote and analyzed acquisitions of retail and office properties via Argus and Excel
- Underwrote and structured one construction and two bridge loans totaling \$2.5 MM
- Created internal and external comprehensive presentation analyzing the company's property portfolio, joint ventures, opportunities, and risk management

## VOLUNTEER SERVICE

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Minds Matter (NY Chapter), *Mentor – Manhattan, NY* Sept. '13 – Present

- Mentored a low-income H.S. sophomore in academics and SAT test prep every Saturday afternoon

## SKILLS & INTERESTS

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- *Advanced:* Excel (Cash Flow Modeling), PowerPoint, RCA, CoStar and Word
- *Intermediate:* Argus Valuation- DCF, Bloomberg Terminal, and Thompson Reuters
- *Basic:* Access & SQL
- *Licenses:* Massachusetts & New York Real Estate Salesperson and New York Notary Public
- *Languages:* Fluency in English and Hindi, Intermediate knowledge of Spanish and Mandarin (Chinese)
- *Interests:* Cooking, traveling, and yoga

## Personal Overview

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- Candidate is organized and efficient
- Extensive typing and computer experience (75 wpm)
- Excellent interpersonal skills, with proven experience dealing with people from diverse backgrounds.
- Capable of following through to completion with accurate results to achieve project goals, while working in a constantly changing environment
- Highly proficient in MS Word, Excel, Access, PowerPoint, Outlook, Quickbooks
- Extremely creative, flare for design & implementing creative strategy to maximize space and its potential
- Capable of multitasking in a pressure environment
- Extensive experience in the nursing home field/Medicare, Medicaid & private insurance billing
- Highly driven, dedicated, discreet and professional
- Excellent verbal and written communication skills
- Engaging communicator, able to speak publicly with eloquence and effectiveness

## Education:

- 2014- Present – Touro Law Center, Central Islip, NY – 1L
- 2011-2012 – Graduated with a Bachelors degree in Liberal Arts & Social Sciences - Thomas Edison State College, NJ/ Farleigh Dickinson University, NJ
- 2008- 2009 – MeOhr Jerusalem, Israel – Earned 30 College credits in a highly accredited program abroad
- Certified NJ Notary Public

## Professional Experience:

2009- Present (Part time/Hobby): Interior Designer/ PR Manger

Susan Strauss Design - Lakewood, NJ

- Executes design from start to finish as a service giver for residential and commercial projects
- Coordination of space planning, paint colors, furniture placement, accents
- Implements creative and technical solutions within a structure to achieve a finished interior environment that solves the customer's problems and links space to business strategies and goals
- Enhance the quality of life and culture of the occupants, creating an aesthetically attractive outcome
- Create designs in response to and coordinated with the building shell, and acknowledge the physical location and social context of the project
- Create designs that adhere to code and regulatory requirements, and encourage the principles of environmental sustainability
- Choose interior designs to influence marketing factors of real estate, addressing the organization's needs through architecture and design elements
- Initiate company process that follows a systematic and coordinated methodology, including research, analysis, and integration of knowledge into the creative process, whereby the needs and resources of the clients are satisfied to produce an interior space that fulfills the project goals
- As I am currently enrolled full time in school, I manage the Susan Strauss Design public image from overseeing all social media, to magazine editorials and paid features to expand national publicity. Additionally, I am the liaison between client and service/ contractor when issues arise.

2013- 2014: Paralegal/ Legal Researcher

Business Licenses LLC- Monsey, NY

- Research and analyze requirements for multiple clients, including Fortune 500 companies, for short- and long-term deadlines
- Analyze municipal codes and consult local and state officials to determine applicability of licensing requirements
- Resolve discrepancies between municipal code requirements and local practices
- Real estate investment trust (REIT) compliance
- Simplify the licensing procedure for clients by forming relationships with authorities and retrieving the most up to date licensing applications, requirements and pertinent information
- Organizing all received data onto spreadsheets properly structured for a smooth transition to our legal database

2011- 2013: Assistant VP of Acquisitions & Finances

Diversified Holdings LLC – Lakewood, NJ

- Seek potential investment properties and follow through until completion of closing
- Meet with potential investors, develop effective relationships
- Oversee tenant management
- Develop and implement business strategies, which result in increased company efficiency and productivity
- Develop new contact relations through phone contact, cold calling and sales activity

# Debbie Schleider

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- Manage executive calendar and coordinate weekly project team meetings - Assist in the development of meeting agendas to increase efficiency
- Directly support CEO in managing operation workflow
- Produce financial quarterly reports on investment properties
- Strategically execute and implement ideas that will create traffic in the investment properties (ie. Indoor shopping malls)
- Excellent ability to take notes and understand the topic of discussion in order to refer to needed material

## 2009- 2011: Manager of a Medical Supply Company

Ortho Step Inc. – Lakewood, NJ

- Managed a busy medical supply company, including all aspects of operation
- Improved communication efficiency as primary liaison between departments, clients and vendors
- Systematically increased office organization by developing more efficient filing/documenting system and customer database protocols
- Increased meeting efficiency by developing meeting agendas
- Planned and executed all aspects of major office headquarters move
- Created databases and spreadsheets designed to improve inventory management and reporting accuracy
- Excelled within deadline-intensive environment, ensuring accurate and on-time completion of all projects
- Processed accounts receivable and accounts payable
- Acted as liaison with vendors to order and maintain inventory
- Made in-service visits to nursing homes, hospitals and medical offices to acquire accounts
- Oversaw billers and managed all medical billing processes, i.e. (Medicare, Medicaid, private Insurances)

## Community Service:

### 2010 - Present- Chai Lifeline:

Chai Lifeline, a not-for-profit organization that offers vital services in supporting patients diagnosed with genetic and terminal illnesses. CL provides hospital services, counseling, educational assistance, activities and events, crisis intervention, trips and vacations, and community services. Services can include everything from making certain patients have transportation to and from doctor's visits and hospitalization, to ensuring that there is a warm dinner on the table in the evening.

- As a Chai lifeline volunteer, I assist in transporting patients and their families to and from medical facilities, primarily CHOP, Children's Hospital of Philadelphia and Memorial Sloan-Kettering Cancer Center in New York City. Delivering dinner to homes in the evening, and ensuring that the needs of families are met.

### 2011 - Present- Lev Rochel Bikur Cholim of Lakewood, NJ:

Lev Rochel Bikur Cholim, is a multi-faceted organization that services hundreds of struggling families daily, with whatever needs they may have, be it the sickly, elderly or poor. As a Bikur Cholim volunteer, I joined a friend to assume the responsibility of raising the funds necessary to sustain the organization through the coming year. We organized an event that included over one thousand people, coordinating everything from the catered dinner to its décor, and arranged the evening's smooth transition from slide show to speaker, to Chinese auction.

- We had a successful turnout and were blessed to be able to raise over \$150,000 for this worthy organization and its work.

### 2008-2011- Camp Simcha/Camp Simcha Special

Camp Simcha and Camp Simcha Special is a vital set of services provided by Chai lifeline, in the form of an active and growing summer program. Each summer, 430 children who are seriously ill, are treated to an unforgettable, medically supervised overnight camp experience at Camp Simcha. This program is designed for children battling cancer and other hematologic illnesses, and Camp Simcha Special is especially offered for children with debilitating chronic conditions. As part of these special camp experiences, children and teens trade time in hospital rooms and doctors' offices for days of summer fun, friendship and hope.

- Each program is two weeks in length and I had the honor to be a counselor in the Camp Simcha program, working especially with a beautiful little girl who has been fighting leukemia for the past five years.
- In the Camp Simcha Special program, I was one of two counselors who partnered to work with a unique and special camper who was born with CP (Cerebral Palsy).

### 2009- 2010 - Bonei Olam:

Bonei Olam is an organization formed to aid couples that are experiencing infertility to realize their dreams of becoming parents. It was founded by a group of individuals who themselves have experienced the hardships of infertility, and the mission is to provide funding for all aspects of fertility treatments, thus relieving couples of the financial, emotional and physical stress resulting from infertility.

- As a volunteer of Bonei Olam, I have joined its "Run to Give" team. Each runner raises a minimum of \$1000 in order to help alleviate the unique pain and struggles of these couples. We join the Women's IMG half marathon in Central Park, NYC, and run 13.1 miles for this cause.
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---

2009 to Present	Chairman-Long Island Business Council
2001-2008 2001-2009	Nassau Council Chambers of Commerce (Past President)
1985 to Present	RMB DRAFTING SERVICES, INC. President and Founder  Operating the largest research/drafting/expediting inspections firm on Long Island. Providing services to attorney, homeowner, real estate agencies, architect and engineers. Prepare plans and process applications, file, review with local building departments, variance services and clear open permits for certificates of occupancies to be issued.
1992 to Present	ELECTRICAL INSPECTORS, INC. President and Founder  Providing professional electrical inspections for commercial and residential properties within Nassau and Suffolk Counties. Licensed in over 90 municipalities. Provide compliance with the NYS Building Code, NFPA and National Electrical Code. Specialize in life safety requirements.
1992 to Present	RMB DEVELOPMENT CONSULTANTS, INC. President and Founder  Provide consulting to large development firms for new projects. Site planning, permits, services, fire safety consulting and codes review
1981 to January, 2000 (Retired)	NEW YORK CITY FIRE DEPARTMENT (FDNY) Battalion Aide Fire Fighting Safety Aide

Decorated Class "B" award in 1992

In charge of manpower, fire reporting and field communications at on scene fires and incidents for emergency situations.

#### **SAFETY TECHNICIAN**

Assisted with accident investigation for all fire apparatus and ambulance citywide. Also inspected and investigated all types of injuries and greater alarms for OSHA and Department compliance. Provided building inspections for code compliance, and life safety.

**1979 to 1981**

#### **NORTH BELLMORE FIRE DISTRICT**

Fire Dispatcher, supervised, controlled and dispatched fire apparatus for six communities in the Town of Hempstead. Elmont, North Bellmore, Bellmore, Merrick, North Merrick, Lakeview. Designed new dispatching center at fire district office.

#### **Education:**

New York Institute of Technology, Old Westbury, NY  
B. S. Degree in Architecture

Delhi University, Delhi, New York  
A.S. Degree in Architecture and Engineering

#### **ACTIVE AFFILIATIONS IN THE FOLLOWING ORGANIZATIONS**

Chairperson of Nassau County Correctional Center-Board of Visitors  
Council of East Meadow Community Organizations - 1<sup>st</sup> Vice President  
Nassau County Advisory Jail Committee-Board Member  
Certified Code Inspector (NYS-Building Officials Conference)  
National Fire Protection Agency since 1985 (member)  
Nassau Electric League (member)  
Suffolk County Electrical Contractors Association (member)  
International Association of Electrical Inspectors (inspector member)  
BIANCO-Building Inspectors Association of Nassau County (inspector member)  
Italian-Heritage Club – (CO-Founder 1998)  
Elmont Fire Department Exempts Association (life member)  
Notary Public, State of New York  
Nassau County Law Enforcement Exploring Advisory Board – Board Member  
Vision Long Island – Board Member  
OSHA Safety Certified  
United Way-Board Member

**PRIOR AFFILIATIONS IN THE FOLLOWING ORGANIZATIONS**

New York State Small Business Advisory Board, Board Member  
Lighthouse Steering Committee, Nassau Coliseum Renovation  
Nassau Council of Chambers of Commerce – Past President (Serving 52 Chambers of Commerce)  
New York City Congestion Fee Commission - Commissioner  
Columbia Lawyers Association of Nassau County (associate member)  
Nassau County Italian Americans in Government Association (board member)  
Nassau County Fire Fighters Museum—1<sup>ST</sup> Vice Chairman  
Town of Hempstead, Industrial Development Agency – past Board Member  
East Meadow Chamber of Commerce Past President and Past Chairman of the Board  
Education Assistance Corporation (EAC) Executive Board of Director – past 1<sup>st</sup> Vice Chairman (retired)  
East Meadow Kiwanis Club, Past Secretary  
Nassau County HUB Advisory Panel- Board Member  
LIPA Hurricane Panel

***PAST AFFILIATIONS***

Ex-Captain – Elmont Fire Department – Truck Company # 2

**ELMONT FIRE DEPARTMENT**

Responsible for 30-man Company that responded to over 2000 emergency calls a year. Certified Chauffeur – past Emergency Medical Technician certified. Holds certifications for advanced, Officer and Basic Training.

Designed and implemented "zone" system, which is currently in place for entire Fire Department. Reduced response time, increased productivity with zone system.

Fireman-Cunningham Fire Department, Colorado-1979

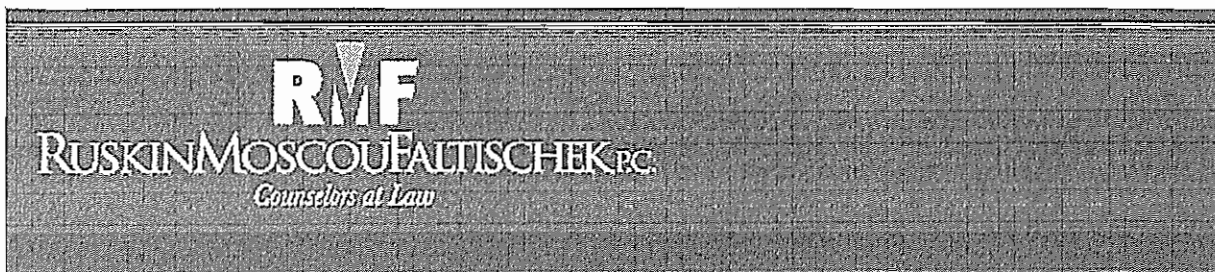
**Kenneth L. Brooks, P.E.**

Kenneth L. Brooks, P.E. received a B.S. in Chemical Engineering from the State University of New York at Buffalo in 1977. He has been licensed as a Professional Engineer in New York State since 1988. He is a Gold Certified Professional Environmental Consultant by the New York City Office of Environmental Remediation. He is also a member of the National Society of Professional Engineers (since 1987).

After graduation, Ken developed a broad base of relevant experience in chemical manufacture, process engineering and control; and heavy process equipment design, fabrication, and startup; some of this involving highly toxic and radioactive materials.


Ken is Senior Vice President at Galli Engineering, P.C. where he manages the Environmental Engineering section. In this position, he is responsible for managing projects for manufacturing and commercial firms, real estate developers, and attorneys. Ken has managed several New York State Brownfield projects, most recently having secured a Certificate of Completion for a former electroplating shop and bus garage in Nassau County, NY.

While with Galli, Ken has conducted or reviewed hundreds of Phase I and Phase II investigations for sites in the Tri-State area, and addressed a wide range of issues arising out of these. He has prepared applications for solid waste, air emissions, secondary containment systems, and stormwater permits. He has prepared scores of site cleanup workplans for sites under the Oil Spills program, Voluntary Cleanup Program, Brownfield Cleanup Program, and local governments.



**Edward A. Ambrosino  
Of Counsel**

New York Law School (J.D., 1989); Fairfield University (1986), New York University Tax Graduate Law School

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 Add to Outlook Contacts

Edward Ambrosino serves Of Counsel to Ruskin Moscou Faltischek, where he is Chair of the firm's IDA and Municipal Development Incentives practice group as well as a member of the Real Estate and Zoning and Land Use Departments and the Municipal and Government Affairs Group.

Mr. Ambrosino is a leading authority for companies on IDA and conduit issuer development transactions and specializes in real estate development and municipal law. Among his various clients, he serves conduit borrowers, national real estate developers and multi-national technology and energy firms.

Mr. Ambrosino is very active in government and local politics. Currently, he is serving in his 2nd consecutive term as Councilman to the 2nd District of the Town of Hempstead.

Mr. Ambrosino joined the firm after having served Nassau County as counsel to the Republican caucus of the Nassau County Legislature. As the first Majority Counsel to the new County Legislature, he authored

- PRACTICE AREAS**
- IDA and Municipal Development Incentives
  - Real Estate
  - Zoning and Land Use

**PUBLICATIONS**



the first rules of procedure and created its internal systems and committee structure. He counseled the Presiding Officer and the Minority Leader, drafted all caucus legislation and negotiated and reviewed documents involved in several major transactions including the sale of the Nassau County Medical Center, the \$270 million securitization of Tobacco Settlement Proceeds and the \$242 million MTA Financing. In addition, Mr. Ambrosino was a legislative counsel on all Collective Bargaining Agreements with municipal unions, and he reviewed and analyzed the County Budget, negotiated with the County Executive and consulted with the Governor's office and members and staff of the NYS Senate and Assembly.

Mr. Ambrosino has dedicated himself to several community organizations as well, being President and Founder of Amber Rose Productions, a not for profit community theatre production company and he serves as counsel or board member to several organizations, including the Friends of North Valley Stream, the Central Nassau Civic Association, the Nassau County Sports Commission, the Pat Cairo Family Foundation, Musicals Unlimited, the Elks, the Knights of Columbus, the Rotary Club, the Kiwanis Club and the Nassau County Literacy Volunteers of America.

Mr. Ambrosino attended Chaminade High School, Fairfield University, New York Law School and New York University Law School. He will be teaching a course he developed, *Leveraging the Public/Private Partnership*, for the Real Estate LLM program at his alma mater.

INNS OF COURT PROGRAM - FACT PATTERN  
Revised 1/22/15

Purchasers:	Law students:	VIJAY GOGIA DEBBIE SCHLEIDER
	Attorney:	JOHN P. REALI, ESQ.
Seller:	Law student:	MARYAM NAYIBOVA
	Attorney:	MARILYN GENOA, ESQ.
Moderator:	RICHARD EISENBERG, ESQ.	

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Subject premises is vacant warehouse previously owned by ABC Trucking Company for the storage and repair of company owned vehicles.

Property is located on Wantagh Avenue, Wantagh, Town of Hempstead and is zoned business and over one acre in size and backs on residential property.

Purchaser would like to purchase same and use it for an automobile dealership for the sale of new and used Packard cars, with outside storage of said cars and repair of cars.

Purchase price is \$2,500,000.00 and purchaser wants times to do a Phase I Environmental study and a Phase II, since there is probably underground storage tanks, oil leaks from trucks, etc.

Contract to be conditioned upon the following:

- a) Satisfactory environmental studies
- b) IDA financing
- c) Zoning to use premises for above purposes

Purchaser seeking tax benefits (PILOT Agreement) and exemption on sales tax for personal equipment purchased in connection with the real estate.

Purchaser is seeking financing from Bank of America for \$1,800,000.00.

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EXHIBIT 1 REAL ESTATE

EXHIBIT 2 PROPERTY

EXHIBIT 3 SERVICE CONTRACTS

EXHIBIT 4 PERMITTED EXCEPTIONS

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AGREEMENT OF SALE

THIS AGREEMENT made this \_\_\_\_ day of February, 2015, between ABC Trucking Company Inc., with its principal place of business at Wantagh Avenue, Wantagh, New York 11793 (hereinafter, "Seller"), and Packard Automotive LLC., a New York corporation with its principal place of business at XXXXXXXXXX, Farmingdale, New York 11735 (hereinafter, the "Buyer").

WHEREAS, Seller owns the premises located at Wantagh Avenue, Wantagh New York also know as District XXX, Section 123, Block X and Lot XX (hereinafter, the "Premises");

WHEREAS, the Seller wishes to sell and Buyer wishes to buy the Premises;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

1. DEFINITIONS.

The following expressions shall have the meanings set forth below:

1.1 "Real Estate" means the land described on Exhibit I and all of the buildings and other improvements constructed thereon.

1.2 Intentionally Deleted

1.3 Intentionally Deleted

1.4 "Closing Date" means the date on which Closing occurs. "Closing" is hereby defined as the event whereby title to the Property is actually conveyed by Seller to Buyer.

1.5 "Service Contracts" means all written agreements pursuant to which goods, services or supplies are furnished on a recurring basis for the operation of the Real Estate. Copies of such Service Contracts are attached as Exhibit 3.

1.6 "Escrow Agent" means Genoa & Associates, P.C.

1.7 "Due Diligence Period" means a period of time beginning on the day after the Buyer's attorney receives a fully executed agreement of sale, and expiring at midnight, New York time, on the 60<sup>th</sup> calendar day thereafter, or the first business day after said date if such 60<sup>th</sup> day does not fall on a business day.

1.8 "Permitted Exceptions" means those certain title exceptions set forth in Exhibit 4 attached hereto.

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1.9 "Property" means all personal property and equipment (if any) owned by Seller and located on the Real Estate, including equipment, machinery and fixtures at the Property set forth at Exhibit 2. Said Property shall be free and clear of any debts, mortgages, security interests or other liens or encumbrances.

1.10 "Deposit" or "Downpayment" means a deposit, to be paid by Buyer to Escrow Agent in the amount of Two Hundred and Fifty Thousand (\$250,000.00) Dollars.

1.11 "Environmental Laws" means any and all federal, state, or local laws, statutes, ordinances, rules, regulations, common law theories or doctrines relating to (i) human health or protection of the environment, or (ii) the generation, storage, possession, use, handling, transportation, treatment, disposal or Release of Hazardous Substances. The term "Environmental Laws" shall include, but not be limited to, the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9601 et seq.), the Hazardous Material Transportation Act (49 U.S.C. § 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), the Oil Pollution Act of 1990 (P.L. 101-380), the Safe Drinking Water Act (42 U.S.C. § 300(f), et seq.), the Clean Air Act (42 U.S.C. § 7401 et seq.), the Toxic Substances Control Act (15 U.S.C. § 2601 et seq.), the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. § 136 et seq.), the New York Environmental Law and the New York Navigation Law, as such laws have been and hereafter may be amended or supplemented, and any related or analogous present or future federal, state, or local, statutes, rules, regulations, ordinances, licenses, permits, interpretations, orders or directives of regulatory and administrative bodies; Environmental Laws excludes requirements related to human health or worker safety under the Occupational Safety and Health Act (29 U.S.C. § 651 et seq.) or other occupational safety laws or requirements.

1.12 "Hazardous Substance" means any pollutant, contaminant, chemical, waste, substance or material, whether or not defined or regulated as such in any Environmental Law, including (without limitation) asbestos, petroleum (including crude oil or any fraction), radioactive substances and polychlorinated biphenyls, or material which has the potential to become a Hazardous Substance; provided, to the extent that the applicable laws of any state establish a meaning for "hazardous material", "hazardous substance", "hazardous waste", "solid waste" or "toxic substance", which is broader than that specified here or in any Environmental Law, such broader meaning shall apply.

## 2. SALE AND PURCHASE.

In accordance with the provisions of this Agreement, Seller agrees to sell, convey, assign and transfer to Buyer, and Buyer agrees to purchase and acquire from Seller, subject to the Permitted Exceptions (provided said Permitted Exceptions do not render title unmarketable, uninsurable or raise an out-of-possession exception) all of Seller's right, title and interest in and to: (a) the Real Estate, (b) the Property, (c) any land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Real Estate, and (d) all appurtenances and hereditaments appertaining to the Real Estate.

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3. PURCHASE PRICE.

The "Purchase Price" for the Premises is Two Million Five Hundred Thousand (\$2,500,000.00) Dollars which shall be paid as follows:

3.1 (i) Upon the execution of this Agreement, Buyer shall pay the Deposit to Escrow Agent by check subject to collection.

(ii) The Deposit shall be deposited by Escrow Agent in a non-interest bearing IOLA account, separate from Escrow Agent's personal and business accounts, in Chase Manhattan Bank, Greenvale, New York. Upon request the parties shall furnish Escrow Agent with their respective tax identification numbers. At Closing, Escrow Agent shall pay the Deposit to Seller; and the Deposit shall be a credit against the Purchase Price. All escrow fees, if any, charged by Escrow Agent shall be equally shared by Seller and Buyer. Escrow Agent shall hold the Deposit as set forth above unless either Seller or Buyer makes a written demand upon Escrow Agent for the Deposit accompanied by an affidavit signed by the party making the demand stating sufficient facts to show that said party is entitled to receive the Deposit pursuant to the terms of this Agreement. Upon receipt of such demand, Escrow Agent shall give ten (10) days written notice to the other party of such demand and of Escrow Agent's intention to remit the Deposit to the party making the demand on the stated date, together with a copy of the affidavit. If Escrow Agent does not receive a written objection before the proposed date for remitting the Deposit, Escrow Agent is hereby authorized to so remit. If, however, Escrow Agent actually receives written objection from the other party before the proposed date on which the Deposit is to be remitted, Escrow Agent shall continue to hold the Deposit until otherwise directed by joint written instructions from Seller and Buyer or until a final judgment of an appropriate court. However, Escrow Agent shall have the right at anytime to deposit the escrowed proceeds with the appropriate court and, after giving written notice of such action to the parties, Escrow Agent shall have no further obligations with respect to the Deposit, and shall not thereafter, as Escrow Agent, be named or otherwise made a party to any dispute between the parties. In furtherance thereof, the parties hereto explicitly agree that the Escrow Agent is hereby authorized to deduct from the escrowed proceeds any and all fees and expenses necessary to the depositing of said escrowed proceeds with the court, including but not limited to filing fees, process server fees, court costs, and attorneys' fees. In said event all such fees and expenses shall be equally shared by Seller and Buyer. The parties acknowledge that Escrow Agent is acting as a stakeholder at their request and for their convenience, that Escrow Agent shall not be deemed to be the agent of either of the parties, and the Escrow Agent shall not be liable to either of the parties for any act or omission on its part unless taken or suffered in bad faith or in willful or gross negligence regarding this Agreement. Seller and Buyer shall jointly and severally indemnify and hold Escrow Agent harmless from and against all costs, claims and expenses, including attorney' fees, incurred in connection with the faithful performance of Escrow Agent's duties hereunder except that, in the event that the Escrow Agent is named, interpleaded and/or impleaded by any party hereto, such costs, claims and expenses shall be solely and wholly borne by the party naming, interpleading and/or impleading the Escrow Agent in any legal proceeding. Escrow Agent acknowledges agreement to the provisions of this Agreement applicable to it by signing on the signature page of this Agreement.

Notwithstanding its duties as Escrow Agent hereunder, all of the parties are aware that Genoa &

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Associates, P.C., acts as counsel to the Seller, and accordingly, all parties agree that neither its services as Escrow Agent hereunder, nor any provision hereof either expressed or implied, shall restrict or inhibit Genoa & Associates, P.C., in any way from representing the Seller, its successors, or assigns in any action, dispute, controversy, arbitration, suit or negotiation arising under this Agreement, or in any other manner or context whatsoever, whether or not directly or indirectly involving any of the parties hereto. This paragraph is not intended to, nor shall it be deemed to override anything contained in the immediately preceding paragraph.

3.2 At Closing, and subject to the terms and provisions of this Agreement, Buyer shall pay Seller balance of the Purchase Price, Two Million Two Hundred and Fifty Thousand Dollars (\$2,250,000) Dollars, subject to prorations and adjustments provided for in this Agreement, by certified or official bank checks drawn on any bank, savings bank, trust company or savings and loan association having a banking office in the State of New York ("Banking Institution"), payable to the order of Seller, or as Seller may otherwise direct upon reasonable notice to Buyer. Attorney escrow checks and/or attorney loan disbursement checks are not to be construed as official bank checks or certified checks.

3.3 In the event Buyer fails to pay any amount when due or, if paid by check, any check fails to be collected in the ordinary course of business, Seller shall have the right by written notice to Buyer to terminate this Agreement for default by Buyer, in which case the Buyer shall have no further rights hereunder, and Seller shall be entitled to retain all sums previously paid by Buyer as liquidated damages.

3.4 In connection with any Property included in the sale, the parties agree that no part of the Purchase Price shall be deemed to have been paid by Buyers on account thereof.

3.5 The Seller's acceptance of funds from the Buyer or Buyer's lending institution or his agent, representatives or attorneys, shall in no way relieve the Buyer of its obligation to pay the balance of the monies due at Closing, along with all costs incurred by Seller in collecting the proceeds, including reasonable attorney's fees, in the event that any checks are dishonored. The parties agree that the deed to be delivered hereunder shall be deemed to have been delivered in escrow pending collection of the checks. Should said funds be dishonored, then said deed shall be redelivered to the Seller, and the Buyer shall either cure the default or vacate the Premises immediately. Additionally, the Buyer hereby guarantees all checks delivered by or on behalf of Buyer with regard to this Agreement of Sale. The reference herein to any acceptance of funds from a lending institution on behalf of the Buyer is not intended to modify the fact that this Agreement of Sale is not contingent or conditioned upon Buyer's obtaining any type of financing. The provisions of this Section 3.5 shall survive Closing.

4. **CONDITIONS PRIOR TO CLOSING; DUE DILIGENCE PERIOD**

4.1 The Seller, and its employees, shareholders, directors, agents, subsidiaries, and affiliates, disclose to Buyer, and Buyer understands and acknowledges, that the Seller may not have complete knowledge of the physical or economic characteristics of the Premises being sold pursuant hereto. Accordingly (except as otherwise specifically stated in this Agreement), Seller, and its employees, shareholders, directors, agents, subsidiaries and affiliates, hereby disclaim any warranty, guaranty or

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representation, express or implied, oral or written, past, present, or future, of, as to, or concerning: (i) the condition or state of repair of the Premises, including, but not by way of limitation, any condition arising in connection with the generation, use, transportation, storage, release, or disposal of petroleum products, or toxic or hazardous substances, on and under, above, upon or in the vicinity of the Premises such as water, soil and geology, and the suitability thereof of the Premises for any and all activities and use which the Buyer may elect to conduct thereon; (ii) the extent of any right-of-way, lease, possession, lien, encumbrance, easements, license, reservation, or condition in connection with the Premises; and (iii) the physical condition of the Premises, including without limitation the structural, mechanical and engineering characteristics of the improvements to the Premises. Seller and its employees, agents, subsidiaries and affiliates specifically disclaim and make no representation or warranty, express or implied, regarding any information relating to the Premises provided to Buyer by Seller including, without limitation, any environmental, financial, or other studies unless expressly set forth herein. It is further understood and agreed that neither Seller nor any person acting or purporting to act for Seller has made or now makes any representation as to the physical condition (latent or patent or otherwise), expense, operation, or any other matter or thing affecting or relating to the Premises except as herein specifically set forth. Buyer hereby expressly acknowledges that no such representations have been made, that it has inspected the Premises and has agreed to purchase the Premises in its "as is, where is", condition as a result of said inspection and as of the date hereof. Buyer agrees that Seller is not liable or bound in any manner by any financial or written statements, representations, real estate brokers' "set-ups", or information pertaining to the Premises furnished by any real estate broker, agent, employee, trustee, servant or other person, unless the same are specifically set forth herein. It is understood and agreed that all understandings and agreements heretofore had between the parties are hereby merged in this Agreement which alone fully and completely expresses their agreement and that the same is entered into after full investigation, neither party relying upon any statement or representation made by the other not embodied in this Agreement. It is expressly agreed that Seller makes no warranties that the Premises complies with federal, state or local governmental laws or regulations applicable to the Premises or its use. This paragraph shall survive Closing.

4.2 (a) Buyer shall have the Due Diligence Period within which to inspect and examine the Premises, which inspection may include, but shall not be limited to (i) an environmental survey and/or assessment to determine the existence of pollutants and/or contaminants and/or hazardous and/or toxic substances, materials and/or chemicals as defined in Environmental Laws (defined in section 1 above) (hereinafter referred to collectively or individually as "Hazardous Substances"), (ii) compliance with all applicable laws, statutes, rules, and regulations imposed by any relevant governmental authority having jurisdiction over the Premises; and (iii) title and survey matters. During the Due Diligence Period the Buyer shall have access to the Premises for the purpose of making survey or non-intrusive inspections and independent investigations as further set forth herewith; and Seller will, upon receipt of reasonable prior written notice, provide Buyer with access to information within its possession or control with respect to the Premises. Buyer hereby agrees that any physical inspections, examinations, studies, surveys, and tests shall be non-intrusive in nature, unless consented to by Seller. If Buyer deems it necessary to conduct a Phase II Environmental Assessment ("Phase II"), prior to the implementation of any such Phase II, Buyer shall provide Seller with a proposed Investigation Workplan for said Phase II for review and approval by Seller's environmental consultant. Whereas it is explicitly understood that Buyer shall not disturb or modify any existing structure on the Premises (including blacktop or other such

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impervious surfaces (“collectively referred to as “Blacktop”), if Seller does consent to Buyer boring any holes in the Blacktop for testing purposes, such consent is expressly conditioned upon Buyer repairing said boreholes and the Blacktop being returned to substantially the same condition as existed prior to Buyer having conducting such borings). In connection with Buyer's physical inspections, examinations, studies, surveys, and tests , Buyer, and such agents, contractors, employees and designees of Buyer as Buyer may designate, are hereby granted access to the Property, upon no less than twenty-four (24) hours written notice for the purpose of performing physical inspections, examinations, studies, surveys, and tests. Buyer shall give such written notice to Seller by email, facsimile, or otherwise pursuant to Section 13 below, of any proposed entries onto the Premises. As set forth in Section 4.2(b) below, Buyer shall be responsible for and indemnify Seller and hold Seller harmless from any damages, liabilities, or claims for personal injury or property damage or claims therefor which occur during or as a result of or in connection with any of its physical inspections, examinations, studies, surveys, and tests conducted on the Premises by or on behalf of Buyer. Buyer's activities during the Inspection Period shall not interfere with the operations of the Premises.

(b) Buyer shall be obligated to repair any damage which occurs as a result of such physical inspections, examinations, studies, surveys, and tests . Buyer agrees to defend, indemnify and hold Seller harmless from any injury to or death of persons or loss of or damage to the Premises or other property, caused by Buyer or its employees or agents, in performing any physical inspections, examinations, studies, surveys, and tests, or as a result of any liens for labor or services performed and/or materials furnished by or for the account of Buyer in respect of the Premises. Buyer shall furnish, or cause its contractors or agents to furnish Seller with a copy of evidence of insurance with regard to liability from damage to or destruction of property or any personal injury while on the Premises and it is understood that no such access will be granted until such evidence is provided. Buyer shall give Seller true, accurate and complete copies of any written reports from Buyer's inspections, studies, surveys, tests and investigations. Buyer agrees that any non-public information received as a result of any environmental assessment will be kept confidential; provided, however, that any disclosure of such information may be made by Buyer or its representatives to the extent required by applicable law or regulation or judicial or regulatory process, and provided further that, in the event Buyer or any of its representatives becomes legally compelled to disclose said information, Buyer will provide Seller with reasonably prompt notice. In the event the sale is terminated for any reason, Buyer will promptly deliver to Seller a copy of any documents, work papers and other materials (whether obtained from Seller or otherwise; and to the extent same were received from Seller, Buyer shall deliver all originals and copies thereof, other than one copy kept in the files of Buyer's independent counsel) containing information concerning the environmental assessment. The provisions of this Section 4.2(b) shall survive the Closing or earlier termination of this Agreement.

(c) In the event that during the Due Diligence Period, Buyer is not satisfied with the condition of the Premises, then, prior to the end of the Due Diligence Period, Buyer shall have the right by giving written notice to Seller and Escrow Agent to cancel and terminate this Agreement without liability except as otherwise set forth in this Agreement, including, but not limited to, the terms set forth in Sections 4.2 and 15.9, which terms shall survive termination and/or expiration of this Agreement. Upon receipt of such notice prior to the end of the Due Diligence Period, Escrow Agent shall deliver the Deposit to Buyer. In the event Buyer fails to give such notice prior to the end of the Due Diligence

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Period, Buyer's right to cancel this Agreement pursuant to this Section 4 shall lapse. Any notice purporting to cancel this Agreement pursuant to the provisions of this subsection after the Due Diligence Period shall be void and of no force and effect. In the event Buyer cancels this Agreement, as provided herein, the sole liability of Seller shall be to cause the Escrow Agent to refund the Downpayment within ten (10) days after receipt of Buyer's cancellation notice and all reports. Upon such reimbursement, this Agreement shall be null and void and the parties hereto shall be relieved of all further obligations and liabilities except as otherwise set forth in this Agreement, including but not limited to at Sections 4.2 and 15.9 hereof.

4.3 Buyer's Due Diligence activities shall be performed and conducted at Buyers' sole cost and expense and in all respects in a commercially reasonable manner. In order to obtain entry to the Premises to perform its Due Diligence activities, Buyer shall notify Seller no less than 24 hours in advance, in writing, or via facsimile, of the identity of each of the parties intending to enter the Premises and the approximate period of time during which they will be entering and remaining on the Premises. Each and every entry by Buyer and/or its agents shall be coordinated with Seller.

4.4 Seller acknowledges that, during the Inspection Period, Buyer intends to obtain a zoning use variance, or special conditional use permit, waiver or exception, to permit Buyer's intended use of the Property as a automobile dealership (the "Use Variance"). In furtherance thereof Buyer shall submit on or before \_\_\_\_\_, such plans and specifications for said Use Variance as required for the approval by all necessary local governmental agencies with jurisdiction, including any requisite variances, at Buyer's sole cost and expense. Seller shall reasonably cooperate with Buyer in Buyer's efforts to obtain a Use Variance (including, without limitation, executing any application or submission and sending a representative of Seller to any meeting or hearing with respect thereto). In the event that Seller incurs any cost or expense arising from Buyer's Use Variance, Buyer shall reimburse Seller within 10 days after Buyer's receipt of a detailed invoice for any such out of pocket cost or expense including, but not limited to, reasonable attorneys' fees (the "Seller's Use Variance Expense"). Buyer shall not make any submission to the Town of Hempstead (or any other governmental agency or body) without Seller's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. In the event Buyer does not receive the necessary approvals on or before \_\_\_\_\_, Buyer or Seller may cancel this Contract by giving Notice to the other and upon such notice this Contract shall be deemed cancelled and thereafter neither party shall have any further rights against, or obligations or liabilities to, the other by reason of this Contract, except that the Down Payment shall be promptly refunded to Buyer and except as to representations which survive the Closing. It is understood and agreed that Buyer shall be responsible for any and all costs and expenses associated with the Use Variance.

5. ADJUSTMENTS AND PRORATIONS.

5.1 At Closing, all expenses with respect to the Premises shall be prorated as of 12:00 A.M on the Closing Date. Seller shall be responsible for all expenses incurred prior to 12:01 A.M. on the Closing Date and Buyer shall be responsible for all expenses incurred after 12:01 A.M. on the Closing Date.

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5.1.1 Seller shall arrange for final billing for all Service Contracts and utility charges, which billing shall include all usage or services used up through the Closing Date, and Seller shall pay the resultant bills. In the event any of the Service Contracts set forth in Exhibit 3 cover periods beyond the Closing Date the same shall be prorated on a per diem basis.

5.1.2 Real estate taxes, general, special and/or betterment assessments and personal property taxes shall be prorated for those taxes which are due and payable as of the Closing Date. In the event that as of the Closing Date the actual tax bills for the tax year or years in question are not available and the amount of taxes to be prorated as aforesaid cannot be ascertained, then rates and assessed valuation of the previous year, with known changes, shall be used.

5.1.3 Gas, water, electricity, heat, fuel, sewer and other utilities charges to which Section 5.1.1 cannot be applied, and all applicable governmental licenses, permits and inspection fees and operating expenses relating to the Premises, shall be prorated on a per diem basis.

5.2 All prorations and payments to be made under the foregoing provisions shall be made on the basis of a written statement or statements delivered to Buyer by Seller. In the event any prorations, apportionments or computation shall prove to be incorrect for any reason, then either party shall be entitled to an adjustment to correct the same, provided that it makes written demand on the one from who it is entitled to such adjustment within sixty (60) days after the erroneous payment or computation was made; this provision shall survive Closing.

5.3 Seller has the option to credit Buyer as an adjustment to the Purchase Price with the amount of any unpaid taxes, assessments, water charges, and sewer rents, together with any interest and penalties thereon to a date not less than five (5) business days after Closing.

6. TITLE AND SURVEY.

6.1 MARKETABLE TITLE

6.1.1 Seller shall give and Buyer shall accept such title as any reputable title insurance company shall be willing to approve and insure in accordance with its standard form of title policy approved by the New York State Insurance Department, which insurance shall include the description of the Real Estate to be conveyed by Seller according to the filed survey referred to herein, including variation, if any, between the description herein and the tax map description, subject only to Permitted Exceptions as provided for in this Agreement.

6.1.2 Promptly following the execution of this Agreement, Buyer may (if it elects) obtain (at Buyer's sole expense) updates of any existing survey; if Buyer does obtain such an updated survey, Buyer shall cause it to be certified to Seller and Buyer shall promptly furnish Seller with a copy thereof.

6.1.3 Promptly following the execution of this Agreement but no later than five (5) days after a fully executed Agreement is received by Buyer's attorney, Buyer shall also (at

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Buyer's sole expense) order an examination of Title (the "Title Commitment"); and, Buyer shall cause the title company to promptly furnish Seller with true accurate and complete copies thereof (including true, accurate and complete copies of all underlying title exception documents referenced therein).

6.1.4 In the event that the Title Commitment shows objections and exceptions, the Buyer shall, no later than thirty (30) days prior to Closing Date, give written notice ("Buyer's Title Notice") of such defects or objections to title to the Seller's attorney and Seller shall have the right, at Seller's option, to cure the defect or objections (hereinafter the "Title Correction") to title prior to Closing and the date for the closing of title shall be adjourned accordingly. Failure by Buyer, directly or through the title company, to give Buyer's Title Notice (or to otherwise object to any matter referenced in the Title Commitment) to Seller on or before said date, shall constitute Buyer's final and irrevocable approval of the condition of title (and to any such matter not objected to) in and to the Real Estate.

6.1.5 With the exception of defects or objections in title where the aggregate cost to remove, correct, cure or satisfy shall not, in the aggregate, exceed Five Thousand (\$5,000.00) Dollars, Seller shall have no obligation to undertake any action or to incur any expense in order to effectuate any Title Correction with regard to any condition contained in the notification required by subparagraph 6.1.4 hereof (except that notwithstanding the foregoing, Seller shall be required to remove or discharge any mortgages or deeds of trust, as well as any other liens in an ascertainable dollar amount created by Seller); and any attempt by Seller to cure shall not be construed as an admission by Seller that such objection is one that would give Buyer the right to cancel this Agreement.

6.1.6 If Seller elects not to remove, correct, cure or satisfy matters raised in Buyer's Title Notice which exceed the sum of Five Thousand (\$5,000.00) Dollars in the aggregate to remove, correct, cure or satisfy, Buyer shall have the right at its sole option either: (a) to terminate this Agreement, in which event the Deposit shall be returned to Buyer and neither party shall thereafter have any further liability hereunder, or (b) to accept such title as is disclosed by the Title Commitment without Title Correction and without any reduction to the Purchase Price, thereby waiving any rights against Seller with respect thereto. Said election shall be made by Buyer within seven (7) days following Buyer's receipt of written notification by Seller that Seller has not effectuated Title Correction. In the event that Seller (even though under no duty to do so) shall undertake Title Correction, and shall be successful, this Agreement shall continue in full force and effect and Buyer shall close the transaction contemplated hereby in accordance with the terms hereof. In the event that Seller shall only be partially successful in obtaining Title Correction, Buyer shall have the same alternative rights as Buyer would have in the event Seller had declined to seek Title Correction. Buyer shall make its election within seven (7) days after Buyer's receipt of written notice from Seller to Buyer of the extent to which title has been corrected, and that Seller declines to make any further corrections.

## 6.2 LIENS and ENCUMBRANCES

6.2.1 If at the Closing Date there are liens or encumbrances which render title unmarketable and which Seller is obligated or desires to pay and discharge, Seller may use any portion of the Purchase Price to satisfy the same, provided Seller shall simultaneously either deliver to Buyer at the

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Closing, instruments in recordable form and sufficient to satisfy such liens and encumbrances of record together with the cost of recording or filing said instruments; or provided that Seller has made arrangements with the title company in advance of Closing, Seller will deposit with said title company sufficient monies, acceptable to and required by it to insure obtaining and the recording of such satisfactions and the issuance of title insurance to Buyer either free of any such liens and encumbrances, or with insurance against enforcement of same out of the insured premises. Buyer, if request is made within a reasonable time prior to the Closing, agrees to provide at the Closing separate certified or bank checks as requested, aggregating the amount of the balance of the Purchase Price, to facilitate the satisfaction of any such liens and encumbrances. The existence of any such liens and encumbrances shall not be deemed objections to title, if Seller shall comply with the foregoing requirements.

6.2.2 Unpaid liens for taxes, water charges, sewer rents and assessments which are the obligation of Seller to satisfy and discharge shall not be objections to title, but the amount thereof, plus interest and penalties thereon, shall be deducted from the Purchase Price to be paid hereunder and allowed to Buyer, subject to the provisions for apportionment of taxes, water charges and sewer rents contained herein. Similarly, unpaid franchise taxes of any corporation in the chain of title, or estate, income or other taxes which may be liens against the Property as of the Closing Date shall not be an objection to title, provided the title company agrees to insure against the collection of said taxes from the Real Estate and in such event, if required by the title company, Seller agrees to deposit at Closing with the title company an amount deemed reasonable by it to secure the payment of such unpaid franchise tax, or other tax.

### 6.3 RIGHT TO TERMINATE

In the event that Seller is unable to convey title in accordance with the terms of this Agreement, or if any representation of Seller herein is untrue in a material respect on the Closing Date and Seller does not correct same (it being understood that Seller will be entitled to one or more adjournments of Closing for such purpose), the sole responsibility of Seller will be to refund (or cause to be refunded by the Escrow Agent) to Buyer the Deposit, as well as to reimburse Buyer for all title charges actually incurred, and upon the making of such refund, this Agreement shall be deemed canceled and neither party shall have any further claim against the other by reason of this Agreement, except that Buyer shall remain liable on their obligations under Sections 4.2 (b) and 15.9.

### 6.4 COSTS OF TITLE AND SURVEY

All costs of obtaining the Title Commitment, the policy of title insurance and survey shall be borne by Buyer.

### 6.5 RESPONSIBILITY FOR VIOLATIONS

6.5.1 Except as provided in section 6.5.2, all notes or notices of violations of law or governmental ordinances, orders or requirements which were recorded or issued in writing prior to the date of the execution of this Agreement by any governmental department, agency or bureau having jurisdiction as to conditions affecting the Premises shall be removed or complied with by Seller. If such removal or compliance has not been completed prior to the Closing, Seller shall pay to Buyer at the Closing the reasonably estimated unpaid cost to effect or complete such removal or compliance, and Buyer shall be required to accept title to the Premises subject thereto. All such notes or notices of violations noted or issued on or after the Closing Date shall be the sole responsibility of Buyer.

6.5.2 If the reasonably estimated aggregate cost to remove or comply with any violations or liens which Seller is required to remove or comply with, pursuant to the provisions of Section 6.5 shall exceed the sum of Five Thousand (\$5,000.00) Dollars, Seller shall have the right to cancel this Agreement, in which event the sole liability of the Seller shall be as set forth in Section 14, unless Buyer elects to accept title to the Premises subject to all such violations or liens, in which event Buyer shall be entitled to a credit of Five Thousand (\$5,000.00) Dollars against the monies payable at the Closing.

6.5.3 Intentionally omitted.

6.5.4 If required, Seller, upon written request by Buyer shall promptly furnish to Buyer written authorizations to make any necessary searches for the purposes of determining whether notes or notices of violations have been noted or issued with respect to the Premises or liens have attached.

**7. DAMAGE, DESTRUCTION OR REQUIRED ALTERATION.**

7.1 Prior to Closing, in the event of any damage to or destruction of all or part of the Real Estate (notice of which shall be given to Seller by Buyer as soon as practicable following its occurrence), then Seller shall have the right (but not the obligation) to adjourn the Closing Date for up to one hundred and twenty (120) days in order to repair or replace such damage or destruction, except that if the cost of such repair or replacement exceeds twenty (20%) percent of the Purchase Price, then in any such case (i) Buyer shall have the right to terminate this Agreement by giving Seller written notice of its intention to do so, such notice by Buyer to Seller to be given not later than five (5) days after Buyer shall have given the notice to Seller of such aforesaid occurrence, (in which event the Deposit, plus interest, if any, shall forthwith be returned to Buyer, whereupon the Agreement shall be null and void and of no further force or effect whatsoever); or (ii) if Buyer elects not to (or does not have the right to) terminate this Agreement, this Agreement shall continue in full force and effect except that at Closing Buyer shall receive an abatement of the Purchase Price in an amount equal to the amount required to repair and restore all unrepaired damage up to the maximum amount which has been finally determined that Seller shall collect for insurance proceeds (and Seller shall retain all rights to collect insurance proceeds for such loss).

7.2 In the event that any governmental authority having jurisdiction of all or part of the Real Estate notifies Seller before the Closing that some alteration of, or addition to, the Real Estate is required to be made by law, rule or regulation (notice of which shall be given to Buyer by Seller as soon as practicable after its receipt) or otherwise requires a cure of a violation, then Seller shall have the right (but not the obligation) to undertake such alteration, addition or cure; provided, however, that if the cost of such alteration, addition or cure shall exceed the sum of one (1%) percent of the Purchase Price, then in such event Seller may either elect to pay the entire cost and cure the same before the Closing or may decline to undertake the same, in which event Buyer shall have the option, exercisable within ten (10) days following notice from Seller of the requirement and Seller's refusal to comply therewith, (i) to terminate this Agreement by giving Seller notice thereof (in which event the Deposit shall forthwith be

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returned to Buyer, whereupon the Agreement shall be null and void and of no further force or effect whatsoever); or (ii) to proceed with the Closing, in which event the Purchase Price shall be reduced by Seller's reasonable good faith estimate of the cost to cure, up to the maximum sum of one (1%) percent of the Purchase Price.

7.3 Notwithstanding the foregoing provisions of Section 7.2, Seller shall have no obligation to cure or pay for, and Buyer shall take subject to, any violation which is first placed (i.e., notice first given to Seller or first placed of record) after the date of this Agreement.

8. EMINENT DOMAIN.

In the event that any eminent domain proceedings shall be commenced prior to the Closing which is of such a nature as would reduce the aggregate square footage of the building by more than thirty (30%) percent, Buyer shall have the right to terminate this Agreement, by written notice given to Seller within five (5) days after the event, (in which case the Deposit shall forthwith be returned to Buyer, whereupon the Agreement shall be null and void and of no further force or effect whatsoever). In any case wherein Buyer has the right to terminate this Agreement pursuant to this Section 8 and Buyer elects not to terminate, or in any case wherein Buyer does not have the right to terminate, Buyer and Seller shall consummate Closing on the Closing Date, without any reduction to or abatement of the Purchase Price, and all theretofore unpaid condemnation awards shall belong to Buyer.

9. NO ASSIGNMENT.

Buyer shall not have the right to assign this Agreement or its rights under this Agreement without obtaining in each instance Seller's prior written consent.

10. COVENANTS AND REPRESENTATIONS.

A. As of the date hereof, and to the best of Seller's knowledge, Seller covenants and represents to Buyer the following:

10.1 Unless otherwise provided in this agreement, Seller is the sole owner of the Premises.

10.2 At Closing, Seller shall have obtained any consents from shareholders required to permit the transactions contemplated by this Agreement including the sale of the Premises to Buyer.

10.3 Seller has no actual knowledge of any pending litigation affecting the Premises brought by or against Seller that would materially adversely affect Buyer. If Seller is served with process or receives notice that litigation relating to the Premises has been commenced against it, Seller shall promptly notify Buyer.

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10.4 If the Premises is encumbered by an Existing Mortgage(s), no written notice has been received from the Mortgagee(s) asserting that a default or breach exists thereunder which remains uncured.

10.5 Except as otherwise expressly provided herein, there are no contracts or agreements affecting the Premises other than the Service Contracts and Permitted Exceptions. Buyer shall have no obligation, liability or responsibility with respect to salaries, vacation pay, fringe benefits or like items for any employees or hired persons in connection with the management, operation or maintenance of the Premises to or subsequent to Closing, nor with any management or employment agreements with respect to the Premises.

10.6 At Closing, Seller shall have terminated and/or transferred to a unrelated property any supply franchise agreement ("SPA") it might have at the Premises for the supply of gasoline and Buyer shall have no obligation, liability or responsibility with regard thereto. Seller agrees to indemnify Buyer against all claims which may arise as a result of said termination and/or transfer or from Seller's failure to have otherwise fulfilled its obligations in accordance with said SPA.

10.7 The signatory to this Agreement on behalf of Seller has the power and authority to enter into this Agreement and to bind Seller to the provisions hereof.

10.8 Seller has no actual knowledge that any incinerator, boiler, or other burning equipment on the Premises is being operated in violation of applicable law.

10.9 Seller has no actual knowledge of any assessment payable in annual installments, or any part thereof, which has become a lien on the Premises.

10.10 Seller is not a foreign person as defined in the "Internal Revenue Service Code Withholding Section."

10.11 Seller shall not enter into any new service contract unless the same is terminable without penalty by the then owner of the Premises upon not more than thirty (30) days notice. Seller represents that there are no Service Contracts at the Premises.

10.12 Seller shall maintain its insurance on the Premises until the Closing, unless substituted by a similar policy.

10.13 Seller has no actual knowledge of any notice of condemnation with regard to the Premises.

10.14 Seller is a New York corporation, duly organized and authorized and validly existing under the laws of New York State. The execution and delivery of this Agreement does not, and the compliance with and the fulfillment of and consummation of the transactions contemplated by this Agreement will not: (i) violate or conflict with any provisions of the Certificate of Incorporation or Bylaws of Seller or result in a breach of, or constitute a default under, or result in the acceleration of,

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any obligation under any agreement or instrument to which the Seller is a party or by which it is bound; (ii) violate a provision of any order, judgment, award or decree to which it is a party or to which it is subject; or (iii) violate any applicable law, order, rule or regulation of any federal or state agency, body or corporation. To the extent necessary, Seller has obtained, or will obtain, all consents, approvals, authorizations or orders of any court, governmental agency or body, and corporation required for the execution, delivery and performance by Seller of this Agreement and the consummation of the transactions contemplated hereby. Seller has taken all actions required to make all of the provisions of this Agreement valid and enforceable obligations of the Seller, and all agreements, instruments and documents herein provided to be executed by Seller are (or will be) duly executed and delivered by, and binding upon, Seller. Prior to the Closing Date, the Seller will furnish Buyer with a copy of all resolutions and other documents authorizing Seller to consummate the transactions contemplated hereunder.

10.15 There are no outstanding agreements to sell, options or rights of first refusal to third parties to purchase the Premises or any portion thereof or any interest therein.

10.16 This Agreement shall be a binding Agreement on the Seller, and enforceable in accordance with its terms.

B. As of the date hereof, and to the best of Buyer's knowledge, Buyer covenants and represents to Seller the following:

10.17 The Buyer is a New York corporation, duly organized and authorized and validly existing under the laws of New York State. The execution and delivery of this Agreement does not, and the compliance with and the fulfillment of and consummation of the transactions contemplated by this Agreement will not: (i) violate or conflict with any provisions of the Certificate of Incorporation or Bylaws of Buyer or result in a breach of, or constitute a default under, or result in the acceleration of, any obligation under any agreement or instrument to which the Buyer is a party or by which it is bound; (ii) violate a provision of any order, judgment, award or decree to which it is a party or to which it is subject; or (iii) violate any applicable law, order, rule or regulation of any federal or state agency, body or corporation. To the extent necessary, Buyer has obtained, or will obtain, all consents, approvals, authorizations or orders of any court, governmental agency or body, and corporation required for the execution, delivery and performance by Buyer of this Agreement and the consummation of the transactions contemplated hereby. Buyer has taken all actions required to make all of the provisions of this Agreement valid and enforceable obligations of the Buyer, and all agreements, instruments and documents herein provided to be executed by Buyer are (or will be) duly executed and delivered by, and binding upon, Buyer. Prior to the Closing Date, the Buyer will furnish Seller with a copy of all resolutions and other documents authorizing Buyer to consummate the transactions contemplated hereunder.

10.18 Buyer shall have obtained any consents from shareholders required to permit the transactions contemplated by this Agreement including the sale of the Premises to Buyer.

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10.19 Neither Buyer nor any parent or affiliated company of Buyer has filed any petition seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief relating to Buyer. No general assignment of Buyer or any Parent Company's property has been made for the benefit of creditors, and no receiver, master, liquidator or trustee has been appointed for Buyer, or any Parent Company or any of its property. Neither Buyer nor any Parent Company is insolvent and the consummation of the transactions contemplated by this Agreement shall not render either Buyer or any Parent Company insolvent.

10.20 Buyer acknowledges that the execution of this Agreement by Seller has been made, and the sale by Seller of the Premises will have been made, in material reliance by Seller on such representations and warranties.

10.21 The signatories to this Agreement have the power and authority to enter into this Agreement and to bind Buyer to the provisions hereof.

10.22 This Agreement shall be a binding Agreement on the Buyer, and enforceable in accordance with its terms.

11. **THE CLOSING.**

11.1 The Closing shall be held at the offices of Genoa & Associates, P.C., or Buyer's lending institution, at 10:00 a.m. on the Closing Date. The Closing Date shall be on or about January 2, 2013.

11.2 At Closing, Buyer shall pay the Purchase Price as adjusted in accordance with the provisions of this Agreement; and Buyer shall execute and deliver such other instruments as Seller may reasonably desire in connection with or to consummate the transactions contemplated by this Agreement.

11.3 At Closing, Seller shall deliver to Buyer the following:

11.3.1 A statutory form of bargain and sale deed with covenants against grantor's acts, containing the covenant required by Section 13 of the Lien Law, and properly executed in proper form for recording so as to convey the title required by this Agreement .

11.3.2 A F.I.R.P.T.A. affidavit.

11.3.3 To the extent they are then in Seller's possession and not posted at the Premises, certificates, licenses, permits, authorizations and approvals issued for or with respect to the Premises by governmental and quasi-governmental authorities having jurisdiction.

11.3.4 A bill of sale, without recourse or warranty, for all right, title and interest of Seller in and to the fixtures, equipment and personal property included in this sale.

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11.3.5 Such affidavits as Buyer's title company shall reasonably require in order to omit from its title insurance policy all exceptions for judgments, bankruptcies or other returns against persons or entities whose names are the same as or similar to Seller's name.

11.3.6 All transfer tax documents (e.g. TP 584, RP 5217) in proper form for recordation.

11.3.7 Keys to Premises, if any.

11.4 At Closing, Buyer shall:

11.4.1 Cause the deed to be recorded, duly complete any required real property transfer tax returns and cause all such returns and checks in payment of such taxes to be delivered to the appropriate officers promptly after the Closing.

11.4.2 Deliver to Seller certified or official bank checks in payment of the portion of the Purchase Price payable at Closing, as adjusted for apportionment under Section 5.

11.4.3 Intentionally Deleted.

11.4.4 Deliver to Seller, a letter authorizing the Escrow Agent to disburse the Downpayment to Seller.

11.4.5 Deliver any other documents required by the Agreement to be delivered by the Buyer.

11.5 Each party shall pay its own legal fees and travel and lodging expenses in connection with this transaction. Seller shall pay for all transfer taxes, documentary stamps or recording charges for transfer of title to the Premises.

11.6 At Closing, certified or official bank checks payable to the order of the appropriate State, City or County officer in the amount of any applicable transfer and/or recording tax payable by reason of the delivery or recording of the deed or mortgage, if any, shall be delivered by the party required by this Agreement of Sale to pay such transfer and/or recording tax, together with any required tax returns duly executed and sworn to, and such party shall cause any such checks and returns to be delivered to the appropriate officer promptly after Closing. The obligation to pay any additional tax or deficiency and any interest or penalties thereon shall survive Closing.

## 12. BROKERS.

Each party represents and warrants to the other that it has dealt with no broker in connection with this transaction, and each party agrees to defend, indemnify and hold the other harmless from and against any and all loss, liability and expense, including reasonable attorney's fees, that the

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indemnities may incur arising by reason of the above representation by the indemnitor being false. The provisions of this Section 12 shall survive Closing.

13. NOTICES.

13.1 All notices, demands, requests, consents, approvals or other communications (hereinafter collectively called "Notices") required or permitted to be given hereunder or which are given with respect to this Agreement shall be valid only if in writing and sent by certified United States mail, return receipt requested, postage prepaid, or delivered by Federal Express or United Parcel Service Next Day Air Service, addressed as follows:

To Seller: XXXX Realty Inc  
c/o Attorneys & Associates, P.C.

Attention: \_\_\_\_\_, Esq.

To Buyer: Realty Corp  
c/o \_\_\_\_\_, LLP  
Att: \_\_\_\_\_, Esq.

To Escrow Agent: Attorneys & Associates, P.C.  
Attention: \_\_\_\_\_, Esq.

or such other address as such party shall hereafter have specified by Notice given by the same means. Any Notice shall be deemed given when delivered to the carrier delivering same, delivery charges prepaid, and properly sealed and addressed. Any Notice may also be given by facsimile to the following numbers: Seller: (516) xxxxxx Att: \_\_\_\_\_, Esq.; Buyer: (516) xxxxxxxx Att: \_\_\_\_\_, Esq.; Escrow Agent: (516) \_\_\_\_\_, Esq., provided that a "hard copy" of such notice is sent within one (1) business day after such facsimile transmission in the manner above set forth; and in the case of notice by facsimile (with confirmation sent as aforesaid), notice shall be deemed given upon electronic confirmation of receipt.

13.2 All Notices may also be given by or to the attorneys for the Seller and Buyer with the same force and effect as if given by the Seller and Buyer respectively.

14. DEFAULTS.

14.1 If Closing does not take place because of Buyer's default, the Deposit shall be retained by Seller as agreed upon liquidated damages as Seller's sole remedy for such default, and thereupon this Agreement shall be null and void and of no further force or effect whatsoever. The parties

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hereto expressly agree that Seller's actual damages in the event of a default by Buyer would be extremely difficult or impractical to ascertain and that the amount of the Deposit represents the parties' reasonable estimate of such damages. If the Buyer fails to close as required hereunder, Buyer releases any claim Buyer may have against the Premises and authorizes Seller to place the Premises back on the market and thereupon no party shall have any further right or obligation hereunder (except that Buyer shall remain liable on its obligations under Sections 4.2 and 15.9).

14.2 If Closing does not occur due to Seller's willful default and refusal to close despite Buyer's willingness to do so, then Buyer, in addition to any other rights and remedies which it may have including specific performance, may, at its option, elect to cancel this Agreement, in which event the Deposit shall be returned to Buyer, and thereupon no party shall have any further right or obligation hereunder (except that Buyer shall remain liable on its obligations under Sections 4.2 and 15.9). Seller shall not be liable for any special, incidental, exemplary and consequential damages, including, but not limited to the loss of profits or revenue, interference with business operations, or inability to use the Premises.

14.3 Dishonorment

14.3.1 In the event that the check given as a Deposit and delivered by the Buyer to the Seller upon the execution of this Agreement is dishonored for any reason by the bank upon which it is drawn, the Seller in addition to any other rights and remedies which it may have, may at its option declare this Agreement null and void and at an end, and thereupon the Seller shall be relieved and released from all obligations thereunder.

14.3.2 Attorney escrow checks are not to be construed as bank or certified funds.

15. MISCELLANEOUS.

15.1 No provision of this Agreement shall survive delivery of the deed except as herein expressly provided. The acceptance of the deed by Buyer shall be conclusive evidence of the performance by Seller of all of the provisions of this Agreement to be performed by Seller, and no action based thereon shall be commenced after the Closing.

15.2 This Agreement (including the Exhibits attached hereto) contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous understandings, if any, with respect thereto.

15.3 This Agreement may not be canceled, modified, changed or supplemented, nor may any obligation hereunder be waived, except by written instrument signed by the party to be charged or by its agent duly authorized in writing.

15.4 The parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the parties hereto and their respective successors or assigns.

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15.5 Intentionally Omitted.

15.6 This Agreement shall extend to and be binding upon the legal representatives, heirs, executors, administrators and, subject to the provisions of this Agreement, the permitted assigns of the parties hereto.

15.7 If, at the Closing Date, there are any proceedings pending to protest or reduce real estate taxes for the year in which the Closing occurs, then the parties agree that Buyer shall continue said proceedings and the services of Seller's attorneys, and Buyer agrees to share with Seller out of the recovery or savings, on a pro rata basis, the legal fees of Seller's attorneys, plus actual out-of-pocket expenses. Buyer shall not make any settlement or compromise of such proceedings without the consent of Seller. Any refund or reduction which covers a period prior to the Closing Date shall belong solely to Seller, and Buyer shall have no interest with respect to any proceedings which relate to prior years. The provisions of this Section 15.7 shall survive Closing.

15.8 Buyer and Seller hereby waive trial by jury in any action, proceeding or counterclaim arising out of this Agreement, provided such waiver is not prohibited by any laws of the State of New York. Any action or proceeding brought by either party hereto against the other, directly or indirectly, arising out of this Agreement, shall be instituted in a court in Nassau County and all motions in any such action shall be made in Nassau County. This paragraph shall survive the delivery of the Deed.

15.9 Buyer represents and warrants that it will keep all information and/or reports and/or documents obtained from Seller or its agents, or related to or obtained or developed in connection with the Premises (including without limitation the existence of this Agreement and the Purchase Price) strictly confidential and will not disclose any such information to any person or entity (except for Buyer's attorneys, consultants and advisors; provided that any such parties similarly agree to treat such material confidentially), without the prior written consent of Seller. The provisions of this Section 15.9 shall survive Closing.

15.10 The captions in this Agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof.

15.11 The submission of an unsigned copy of this document to Buyer for Buyer's consideration does not constitute an offer to sell the Premises. This Agreement shall not be binding or effective until properly executed and delivered by Seller and Buyer.

15.12 As used in this Agreement, the masculine shall include the feminine and neuter, the singular shall include the plural and the plural shall include the singular, as the context may require.

15.13 This Agreement shall be governed by, interpreted under, and construed and enforced in accordance with, the laws of the State wherein the Premises is located. This Agreement shall be construed in accordance with its plain meaning and without reference to any maxim or rule of

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interpretation providing that a writing should be construed against the party responsible for the drafting thereof. Both parties acknowledge and agree that this Agreement has been freely negotiated by both parties, and that, in any dispute over the meaning, interpretation, validity, or enforceability of this Agreement, of any of its terms or conditions, there shall be no presumption whatsoever against either party by virtue of that party having drafted this Agreement or any portion thereof.

15.14 This Agreement shall not be recorded or filed in the public records of any jurisdiction by either party and any attempt to do so may be treated by the other party as a breach of this Agreement.

15.15 This Agreement may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original.

15.16 In compliance with Section 6045 of the Internal Revenue Code, as amended by the Tax Reform Act of 1986, Buyer and Seller will provide their name, address, and Social Security or Federal I.D. numbers, upon request. Buyer and Seller hereby certify that their name and addresses on this Agreement are accurate and further certify that the Social Security or Federal I.D. Numbers, provided to Escrow Agent, are accurate.

15.17 The undersigned parties do hereby acknowledge that they are represented by counsel and accordingly do hereby waive any and all rights they may have under General Obligations Law Section 5-702, more commonly known as "The Plain Language Law", counsel having explained all contract provisions to their respective clients.

15.18 The Seller reserves the right to extend the time for performance of any of the conditions of this Agreement, for a period of up to sixty (60) days. The exercise of any of the Seller's options as provided herein shall be binding upon all parties.

15.19. Seller and Buyer acknowledge that either party may wish to structure this transaction as a tax deferred exchange of like-kind property within the meaning of Section 1031 of the Internal Revenue Code of 1986, as amended. Each party agrees to reasonably cooperate with the other party to effect such an exchange and specifically agrees to accept and consent to an assignment of the other party's rights (but not its obligations hereunder to a "qualified intermediary" as defined in Treasury Regulation §1.1031(k)-1(g)(4) or other like kind exchange accommodation party; provided, however, that (i) the cooperating party shall not be required to acquire or take title to any exchange property, (ii) the cooperating party shall not be required to incur any expense or liability whatsoever in connection with the exchange, including, without limitation, any obligation for the payment of any escrow, title, brokerage or other costs incurred with respect to the exchange, (iii) no assignment of a party's rights however in the normal course of a "1031" exchange transaction shall release said party from any of its obligations, warranties or representations set forth in this Agreement or from liability for any prior or subsequent default under this Agreement by the effectuating party, its successors or assigns, which obligations shall continue as the obligations of a principal and not of a surety or guarantor, (iv) the effectuating party shall be responsible for preparing all additional agreements, documents and escrow instructions (collectively, the "Exchange Documents") required by the exchange, at its sole cost and expense, and (v) the effectuating party shall be responsible for making all determinations as to the legal sufficiency, tax considerations and other considerations relating to the proposed exchange, the Exchange Documents and the transactions contemplated thereby, and the cooperating party shall in no event be responsible for, or in any way be deemed to warrant or represent any tax or other consequences of the





**ESCROW AGENT:**

**Genoa & Associates, P.C.**

By: \_\_\_\_\_, Esq.

Date of Execution: \_\_\_\_\_

SCHEDULE OF EXHIBITS

- 1 Real Estate
- 2 Property
- 3 Service Contracts
- 4 Permitted Exceptions
- 5 Amortization Schedule

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EXHIBIT 3  
SERVICE CONTRACTS

NONE

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EXHIBIT 4

PERMITTED EXCEPTIONS

1. Any state of facts an accurate survey would show, provided same does not render title unmarketable;
2. Covenants, restrictions, utility easements, rights of way and agreements of record, if any, contained in the former deeds or other instruments of record, insofar as they may now be in force or effect, provided same are not violated by the present structure(s) or present use thereof; and
3. Party wall and sewer agreements, easements, reservations, terms, covenants, provisions and restrictions contained in agreements of record, if any, so far as the same may be of present force or effect, provided that the same do not bar present uses of said Property and do not prohibit the maintenance and operation of the present structure thereon; and
4. Possible encroachment of areas, curbs, planters, retaining walls, windows, fire escapes, hedges, railings, walls, cellar doors, cement walls, stoop areas, trim and cornices, sheds, canopies, satellite dishes, fire escapes, if any, cellar steps, fences, if any, upon any street, highway or adjoining premises; encroachments of like kind of adjoining premises upon the premises, provided same do not render title unmarketable; any variation between record lines and fences, curbs, planters, shrubs, retaining walls, and the like, and tax map; and
5. Zoning and subdivision laws and regulations, and ordinances of the City, Town or Village in which the premises lie which are not violated by existing structures and prevent use thereof; and
6. Landmark, historic or wetlands designations; and
7. Consents of record for the erection of any structures on, under or above any streets on which the premises abut, provided that same do not render title unmarketable; and
8. Rights contained in instruments of record, if any, so far as the same may be of present force or effect, in favor of any public or quasi-public utility, provided the same are alike, similar or common to rights affecting other property in the vicinity of said premises; and
9. Possible lack of rights to maintain vaults, cool chutes, or any other installations, if any, beyond the building line, provided that same do not render title uninsurable; also possible variance between tax diagram and record description; and
10. All notes or notices of violations of law or municipal ordinances, orders or requirements noted in or issued, after the date hereof, by the Departments of Housing and Buildings, Fire, Labor, Highway, Health or other State or Municipal Department or public utility having jurisdiction against or affecting the Premises; and

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11. Current unpaid Real Estate Taxes and assessments, subject to apportionment as hereinafter set forth; and

12. Any and all other covenants, easements, reservations, agreements and other matters, if any, of record as of the date of this Agreement; provided same do not prohibit the maintenance of the Real Estate or the existing use thereof. Should a dispute arise as to whether any of such matters prohibit the maintenance or existing use of the Real Estate, Buyer agrees that same shall not constitute a title objection if the title company shall affirmatively insure that they do not prohibit such maintenance or existing use of the Real Estate; and

13. Laws and governmental regulations that affect the use and maintenance of the Premises; and

14. Rights, if any, of any utility company to construct and/or maintain lines, pipes, wires, cables, poles conduits, and distribution boxes and equipment in, over, under, and/or upon the Real Estate of any portion thereof.

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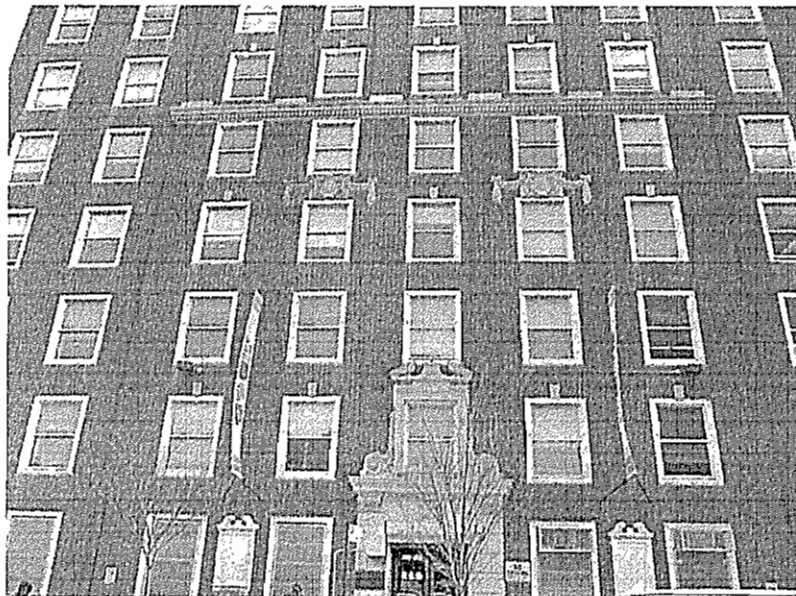
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# Phase I Environmental Site Assessment

(Site Address)  
Brooklyn, NY 11217

April 24, 2014



Prepared for:

(Client Address)  
Brooklyn, NY 11201

Prepared by:

Galli Engineering, P.C.  
35 Pinelawn Road, Suite 209E  
Melville, NY 11747



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## 1.0 INTRODUCTION

Galli Engineering, P.C. has performed this Phase I Environmental Site Assessment (ESA) of the property located at (Site Address), Brooklyn, NY – Tax Map Designation: (Block and Lot) herein identified as the "Subject Property." This Phase I ESA was prepared in accordance with the scope and limitations of ASTM E-1527-13.

### 1.1 Purpose

The purpose of the ASTM Standard is to define good commercial and customary practice in the United States of America for conducting an environmental site assessment of a parcel of commercial real estate with respect to the range of contaminants within the scope of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C. 9601) and petroleum products. As such, this practice is intended to permit a user to satisfy one of the requirements to qualify for the innocent landowner, contiguous property owner, or bona fide prospective purchaser limitations on CERCLA liability (hereinafter, the "landowner liability protections," or "LLPs"): that is, the practice that constitutes "all appropriate inquiry into the previous ownership and uses of the property consistent with good commercial or customary practice" as defined at 42 U.S.C. 9601(35) (B).

The purpose of this Phase I Environmental Site Assessment is to determine if any type of environmental hazard exists within the property in question. Environmental hazards include, but are not limited to, improper storage or handling of hazardous or toxic wastes or raw chemicals; underground storage of hazardous materials; asbestos within building materials or structures; and identification of potential off-site sources of hazardous waste contamination, such as industrial facilities or retail petroleum facilities, adjacent to the subject site.

This assessment is intended to satisfy the criteria set forth in the American Society for Testing and Materials (ASTM) Standard Practice for Environmental Site Assessments, as published in ASTM E-1527-13. Banks, insurance companies, and prospective property purchasers require an understanding of existing and past property conditions and uses in order to assess the potential liabilities associated with a property. A qualified environmental professional as defined

in the ASTM Standard has completed this assessment. The objectives of this Environmental Site Assessment are as follows:

- Establish a basis of understanding of the past and present land uses of the subject property in order to identify potential environmental and/or public health risks.
- Establish a basis of understanding of the past and present surrounding land uses and environmental resources in order to determine their impact on the environmental quality of the subject property.
- Identify any known or potential items in non-compliance with applicable Local, State, or Federal environmental laws and regulations, and subsequently specify how these items can be brought into compliance.
- Identify, to the extent feasible, recognized environmental conditions in connection with the subject and surrounding properties. "Recognized environmental conditions" are defined by ASTM as:

*"The presence or likely presence of any hazardous substances or petroleum products on a property under conditions that indicate an existing release, a past release, or a material threat of a release of any hazardous substances or petroleum products into structures on the property or into the ground, ground water, or surface water of a property. The term includes hazardous substances or petroleum products even under conditions in compliance with laws. This term is not intended to include de minimis conditions that generally do not present a threat to human health or the environment and that generally would not be the subject of an enforcement action if brought to the attention of appropriate governmental agencies. Conditions determined to be de minimis are not recognized environmental conditions. "*

## 1.2 Special Terms and Conditions

It is the responsibility of the user(s) of this report (i.e., the purchaser, lender, owner, potential tenant, or property manager) to provide certain information utilized in the report. This would include reporting any environmental cleanup liens that are filed or recorded against the site; activity and land use limitations that are in place on the site or that have been filed or recorded

in a registry; specialized knowledge or experience of the person seeking to qualify for the "Landowner Liability Protection" (LLP); relationship of the purchase price to the fair market value of the property if it were not contaminated; commonly known or reasonable ascertainable information about the property; and the degree of obviousness of the presence or likely presence of contamination at the property, and the ability to detect the contamination by appropriate investigation.

The level of inquiry is uniform in each Phase I Environmental Site Assessment (ESA); however, the availability of information, relevance, and quality of information can vary. As per ASTM Standards, the "environmental professional is not required to verify independently the information provided, but may rely on information provided unless he or she has actual knowledge that certain information is incorrect or unless it is obvious that certain information is incorrect based on other information obtained in the Phase I ESA or otherwise actually known to the environmental professional." Personnel involved in report preparation will make judgments on the accuracy of user provided information and conduct additional research as necessary in order to meet the requirement of identifying recognized environmental conditions on the subject property.

ASTM refers to a number of standard sources of historic information. Galli Engineering will seek to research as many sources of historic information as may be available as a means of cross confirmation. However, according to ASTM Standard Practice for Environmental Site Assessments (E-1527-13), "the environmental professional is required to review only record information that is reasonably ascertainable", wherein reasonably ascertainable is defined as information that is (1) publicly available, (2) obtainable from its source within reasonable time and cost constraints, and (3) practically reviewable." ASTM defines reasonable time constraints for providing information as being provided by the source within twenty days of receiving a written request. Practically reviewable means that "the information is provided by the source in a manner and in a form that, upon examination, yield information relevant to the property without the need for extraordinary analysis of irrelevant data."

Based on ASTM Standards, the Phase I ESA is not intended to include any sampling and analysis of materials associated with the subject property (i.e., soil, water, air, or building materials).

### 1.3 Limitations and Exceptions

This assessment is dated, and is only valid for activities that occurred prior to the date of the site visit. Activities, liabilities, and alterations to the subject property subsequent to the date of the site visit are not included in the assessment. Under the ASTM Standard, this Phase I ESA has a shelf life of one year.

This assessment is intended to assess the potential for public health or environmental liabilities based upon examination of the subject property in accordance with ASTM Standards. The ASTM Standards provide specific guidance with regard to radon, asbestos, lead in drinking water, lead-based paint and polychlorinated biphenyls (PCBs). Petroleum products are included in the scope of practice because they are of concern with respect to many parcels of commercial real estate and current custom and usage is to include an inquiry into the presence of petroleum products when doing an environmental site assessment of commercial real estate. Inclusion of petroleum products within the scope of this practice is not based upon the applicability, if any, of CERCLA to petroleum products. Under the petroleum exclusion of CERCLA (42 U.S.C. 9601 (14)), petroleum and crude oil have been explicitly excluded from the definition of hazardous substances under CERCLA.

Analysis of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) implications with regard to the innocent landowner defense under Superfund finds that naturally occurring radon is not subject to CERCLA liability and is appropriately considered as a non-scope issue. Accordingly, this assessment will only provide general guidance on this issue, and will not involve or recommend air monitoring for radon gas.

Similarly, the ASTM Standards do not recognize liability with regard to asbestos that is part of the building materials of a structure, in accordance with CERCLA innocent landowner defense under Superfund. However, if asbestos containing material was disposed of on a property, such practice would be subject to Superfund response actions and should be identified consistent with ASTM guidelines. In the interest of serving the client and addressing the needs of the user, this assessment will address observed suspect asbestos containing materials (ACM's) that may pose a health threat. This assessment is not a full asbestos survey as would be required for building demolition, or identification of all possible sources of ACM, regardless of health risk.

Lead in drinking water and lead-based paint are also issues considered to be non-scope under CERCLA innocent landowner defense under Superfund. Lead based paint was in use for many years, and it is likely that many older buildings will have surfaces coated with lead based paint. As a general rule, painted surfaces should be maintained and ingestion of paint products should be avoided. If on-site disposal of these materials were involved, disclosure of this practice would be subject to the scope of this environmental assessment. Lead in drinking water generally occurs as a result of past use of high lead content solder. Water left stagnant in pipes overnight or longer may leach lead from these joints and affect drinking water quality. As a general rule, water should run for several minutes in the morning where such plumbing may be present.

This assessment will not identify all potential sources of PCB containing oils. Common sources of these materials include transformers and fluorescent lamp ballasts. Electric service transformers may include ground level or pole-mounted units. These transformers are owned and maintained by regional public utilities. Should a release of the contents occur, the responsible utility company must assume liability regardless of PCB content. Galli Engineering does not anticipate financial liability to the subject property owner unless the property owner or occupant causes a release due to gross negligence or willful act. The use of PCBs was banned effective July 1, 1979 under the Toxic Substance Control Act (TSCA), and most transformers containing PCBs have been changed out. Aggressive and destructive testing, which would be required for definitive identification of PCB containing oils, is beyond the scope of this study.

Controlled substances are not included within the scope of this standard. Persons conducting an environmental site assessment as part of an EPA Brownfields Assessment and Characterization Grant awarded under CERCLA 42 U.S.C. 9604(k)(2)(B) must include controlled substances as defined in the Controlled Substances Act (21 U.S.C. 802) within the scope of the assessment investigations to the extent directed in the terms and conditions of the specific grant or cooperative agreement. Additionally, an evaluation of business environmental risk associated with a parcel of commercial real estate may necessitate investigation beyond that identified in this practice.

The accuracy of any assessment is limited to the information available during the time of the site visit; the records, files, and drawings provided by the owner and released by governmental agencies; and the accuracy and completeness of the information provided during interviews.

#### 1.4 Data Gaps

Any data gaps identified herein, as defined by ASTM Practice E 1527-13 § 3.2.20, are not considered to have significantly affected the ability to identify recognized environmental conditions in connection with the Subject Property and do not alter the conclusions of this report.

#### 1.5 Project Specifications

This assessment was performed in accordance with good commercial and customary practice as defined by the ASTM E-1527-13 Standard Practice for Environmental Site Assessments. Presented herein are the results of the Phase I ESA conducted by Galli Engineering on the Subject Property. Galli Engineering prepared this site assessment under contract with (Client Name) in order to satisfy requirements as stipulated by said user (ASTM E-1527-13).

(Client Name)	Client	Two Copies
Galli Engineering, P.C. Corporate Records	Assessor	One Copy

## **2.0 SITE CONDITIONS**

### **2.1 Site Description**

The subject property is a seven-story commercial building located at (Site Address), Brooklyn, NY. The subject property includes one rectangular-shaped parcel, identified by the New York City Assessor's Office as (Block and Lot). The lot area is 10,500 square feet and building area is 37,000 square feet. Zoning is C6-4, Commercial. The existing building fully occupies the Subject Property, with no parking areas or landscaped areas with the exception of a driveway and rear courtyard.

### **2.2 Subject Property Reconnaissance**

The Subject Property reconnaissance was conducted by a Galli Project Engineer, on April 18, 2014. At the time of the survey, the weather was cloudy and approximately 35°. During the survey, representative tenant spaces, mechanical spaces, and/or equipment components were observed. There were no significant portions of the Subject Property that were inaccessible or excluded from this survey.

At the time of assessment, the Subject Property was occupied by (Commercial Entity). There is a basement beneath the existing structure, which contains electrical meters, gas meters and a boiler room. The original building construction dates to 1926 and is brick. There are currently no manufacturing or industrial operations conducted at the Subject Property.

### **2.3 Methodology and Limiting Conditions**

The Subject Property reconnaissance consisted of visual and/or physical observations of the Subject Property and improvements, adjoining properties as viewed from the Subject Property boundaries, and the surrounding area based on visual observations made from adjacent public thoroughfares. Building exteriors were observed along the perimeter from the ground, unless described otherwise. Building interiors were observed as they were made safely accessible, unless described otherwise.



## 2.4 Hazardous Substances and Petroleum Products

Galli Engineering did not identify evidence of significant leaks, spills, or the improper handling of petroleum or hazardous substances that might impact the environmental condition of the Subject Property. Galli Engineering did not observe evidence of hazardous substance or petroleum products containers at the Subject Property that were not in connection with identified uses. Galli Engineering did not observe evidence of unidentified substances containers at the Subject Property.

No evidence of improper solid waste management or the improper disposal of hazardous substances or petroleum products was observed at the time of reconnaissance.

## 2.5 Underground Storage Tanks (USTs) and Aboveground Storage Tanks (ASTs)

### 2.5.1 Existing Storage Tanks

Based upon site reconnaissance, interviews, and a review of state and local records, Galli Engineering identified the following AST located at the Subject Property.

<b>STORAGE TANKS</b>	
Tank Type:	Aboveground Storage Tank (AST)
Tank Size:	1,500-gallons
Contents:	# 2 Fuel Oil
Location:	Aboveground, basement boiler room
Year Installed/Age:	Circa 2000
Construction Materials:	Single-wall steel tank encased in concrete
Leak Detection/Prevention:	Concrete block secondary containment vault
Staining / Releases:	None identified

### 2.5.2 Former Storage Tanks

Based upon site reconnaissance, interviews, and a review of state and local records, Galli Engineering identified one out-of-use AST located at the Subject Property.

STORAGE TANKS	
Tank Type:	Aboveground Storage Tank (AST)
Tank Size:	1,000-gallons
Contents:	# 6 Fuel Oil
Location:	Aboveground, basement boiler room
Year Installed/Age:	Unknown
Construction Materials:	Single-wall steel tank
Leak Detection/Prevention:	Secondary containment vault
Staining / Releases:	None identified

### 2.6 Additional Site Conditions

The following is a summary of visual and/or physical observations of the Subject Property on the day of the site visit. Photographs of pertinent Subject Property features are presented in Appendix B.

Additional Site Conditions	
Condition	Identified
Interior Drains, Trenches, or Sumps	Yes
Interior Stains or Corrosion	No
Unusual Odors	No
Interior Pools of Liquid	No
Stained Soil or Pavement	No
Stressed Vegetation	No
Indications of Solid Waste Disposal	No

Additional Site Conditions	
Condition	Identified
Exterior Pits, Ponds, or Lagoons	No
Wastewater or Stormwater Discharge/Disposal	No
Oil-Water Separators or Clarifiers	No
Septic Systems or Cesspools	No
Wells (Drinking Water Wells, Monitoring Wells, Agricultural/Irrigation Wells, or Process Water Wells)	No
Petroleum or Natural Gas Pipelines/Easements	No

Floor drains were observed in the basement boiler room. The drains reportedly discharge to the municipal sewer system. No staining or other evidence of a release of hazardous substances or petroleum products was observed in the vicinity of these structures.

## 2.7 Surrounding Properties

A due diligence investigation into the potential impacts from off-site sources was conducted. The subject property is located in an area generally consisting of commercial development.

Direction	Address	Type
North	(Site Address)	Commercial Office Building
South	(Site Address)	Open Space/Park
East	(Site Address)	Public Facility/Institution
West	(Site Address)	Parking Deck

No visual evidence of adverse environmental conditions was observed during the survey of the adjoining properties.

### **3.0 USER PROVIDED INFORMATION**

#### **3.1 Title Records**

Title records were not available prior to preparation of this assessment.

#### **3.2 Environmental Liens or Activity and Use Limitations**

Activity and Use Limitations (AULs) are one indication of past or present release of a hazardous substance or petroleum products. AULs are an explicit recognition by a federal, tribal, state or local regulatory agency that residual levels of hazardous substances or petroleum products may be present on a property, and that unrestricted use of the property may not be acceptable. The AUL should provide information on the contaminant(s) of concern, the potential exposure pathway(s) that the AUL is intended to control, the environmental medium that is being controlled, and the expected performance objective(s) of the AUL. AULs are often recorded in land title records. AUL information is contained in the restrictions of record on the title, rather than a typical chain of title.

A search for Environmental Liens and Activity and Use Limitations was not included in the scope of this assessment.

#### **4.0 REVIEW OF CORPORATE RECORDS AND REVIEWS**

A review of corporate records and personal interviews can provide useful information regarding the processes occurring on the site. Interviews with subject property representatives and review of available documentation have revealed the following information regarding the environmental quality of the subject property.

##### **4.1 Interviews with Past and Present Owners, Operators and Occupants**

(Site Contact), provided access to the site and general questions were answered regarding the physical characteristics of the subject property during the inspection. Pertinent information from the interview is presented in applicable sections of this report.

##### **4.2 Notice of Violation and/or Stop Work Order**

Six unresolved notices of violations were identified for the subject property, in the form of façade and elevator violations.

## **5.0 GOVERNMENT RECORD INVENTORY**

Galli Engineering requested and reviewed available federal, state, and local regulatory information concerning historical land use and potential environmental issues relating to the subject property. The results of these inquiries and associated records research are discussed in this section.

### **5.1 Freedom of Information Act Requests**

The Freedom of Information Act, (New York Public Officers Law, Article 6, Sections 84-90) provides rights of access to all government documents not exempt from disclosure. Accessible records can include paper documents plus items such as video/audio tape recordings, microfilm and computer files. Galli Engineering has made written requests for all relevant government documentation so as to identify implicit parameters affecting the environmental quality of the subject property. Typically, government agencies take up to six weeks or more to reply with any findings. Copies of any significant information received after issuance of this report will be forwarded to the client.

### **5.2 Environmental Database Search**

Galli Engineering retained Environmental Data Resources, Inc. (EDR) to provide a database search of environmental records maintained by Federal and New York State governments. Galli Engineering examined available environmental database information and records for the subject property and surrounding properties to identify potential environmental impairment with respect to releases, contamination or enforcement actions.

The scope of the database search conducted by EDR is in accordance with ASTM Standard E-1527-13. The specific Federal and State databases searched by EDR are listed below. A description of these databases can be reviewed on pages GR-1 through GR-24 of the EDR Report. A copy of the EDR Report is provided in Appendix C.

## FEDERAL ASTM STANDARD

NPL	National Priority List
Proposed NPL	Proposed National Priority List Sites
CERCLIS	Comprehensive Environmental Response, Compensation, and Liability Information System
CERCLIS NFRAP	CERCLIS No Further Remedial Action Planned
CORRACTS	Corrective Action Report
ERNS	Emergency Response Notification System
RCRA-LQG	Resource Conservation and Recovery Act Information
RCRA-TSD	Resource Conservation and Recovery Act Information

## FEDERAL ASTM SUPPLEMENTAL

BRS	Biennial Report System
CONSENT	Superfund (CERCLA) Consent Decrees
Delisted NPL	National Priority List Deletions
DOD	Department of Defense Sites
FINDS	Facility Index System
FTTS INSP	FIFRA/ TSCA Tracking System - FIFRA (Federal Insecticide, Fungicide, & Rodenticide Act)/TSCA (Toxic Substances Control Act)
FUDS	Formerly Used Defense Sites
HMIRS	Hazardous Materials Information Reporting System
INDIAN RESERV	Indian Reservations
MLTS	Material Licensing Tracking System
MINES	Mines Master Index File
NPL Liens	Federal Superfund Liens
ODI	Open Dump Inventory
PADS	PCB Activity Database System
RAATS	RCRA Administrative Action Tracking System
ROD	Records Of Decision
SSTS	Section 7 Tracking Systems
TRIS	Toxic Chemical Release Inventory System
TSCA	Toxic Substances Control Act

UMTRA Uranium Mill Tailings Sites

**STATE ASTM STANDARD**

SHWS Inactive Hazardous Waste Disposal Sites in New York State

SWF/LF Solid Waste Facilities/Landfill Sites Register

LTANKS Leaking Storage Tank Incident Reports

UST Petroleum Bulk Storage Database

CBS UST Chemical Bulk Storage Database

MOSF Major Oil Storage Facilities Database

VCP Voluntary Cleanup Agreements

SWTIRE Registered Waste Tire Storage & Facility List

SWRCY Registered Recycling Facility List

**STATE OR LOCAL ASTM SUPPLEMENTAL**

HSWDS Hazardous Substance Waste Disposal Site Inventory

AST Petroleum Bulk Storage

CBS AST Chemical Bulk Storage Database

MOSF Major Oil Storage Facility

DEL SHWS Delisted Registry Sites

DRYCLEANERS Registered Drycleaners

AIRS Air Emissions Data

SPDES State Pollutant Discharge Elimination System

SPILLS Spills Information Database

**EDR PROPRIETARY HISTORICAL DATABASES**

Coal Gas Former Manufactured Gas (Coal Gas) Sites

**BROWNFIELDS DATABASES**

US Brownfields A listing of Brownfield Sites

Brownfields Brownfields Site List

VCP Voluntary Cleanup Agreements

INST CONTROL ELUR Sites



**EDR Database Search of Subject Property:**

Review of the EDR database report has revealed that the property at (Site Address) was not listed on any of the databases searched by EDR.

**EDR Database Search of Off-Site Locations:**

Review of the EDR database report has revealed the following:

The map findings summary from EDR listed one National Priority List (NPL) site, one CERCLIS site, one CORRACTS site, four Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) sites, three Small Quantity Generator (SQG) sites, 12 Conditionally Exempt Small Quantity Generator (CESQG) sites, five State Hazardous Waste Sites (SHWS), two Solid Waste Facilities/ Landfill Sites (SWF/LF), 60 Leaking Storage Tank Incident Report (LTANKS) sites, 13 Underground Storage Tank (UST) sites, 30 Aboveground Storage Tank (AST) sites, one Voluntary Cleanup (VCP) site, two Brownfield sites, 23 NY Spills (NY SPILLS) sites, one Formerly Used Defense Site (FUDS), one Record of Decision (ROD) site, one drycleaners, 21 E-Designation sites and three Manufactured Gas Plants (MGP), all within their respective search distances.

**NPL: National Priority List**

**CERCLIS: Comprehensive Environmental Response, Compensation and Liability Information System**

The National Priority List database is a subset of CERCLIS and identifies over 1,200 sites for priority cleanup under the Superfund program. The source of this database is the USEPA.

A review of the NPL and CERCLIS list has revealed that there is one NPL and CERCLIS site within 1-mile of the subject property. This site is identified below.

<u>Lower Elevation</u>	<u>Address</u>	<u>Direction / Distance</u>	<u>Map ID</u>	<u>Page</u>
GOWANUS CANAL	BUTLER ST (BETWEEN BONDSSW 1/4 - 1/2 (0.470 mi.)		BE251	644

Based upon the current regulatory status and distance relative to the Subject Property, it is considered unlikely that conditions associated with the identified CERCLIS and NPL facility represent an environmental concern to the Subject Property.

**CORRACTS:** Corrracts is a list of handlers with RCRA Corrective Action Activity

A review of the CORRACTS list has revealed that there is one CORRACTS site within ¼ mile of the subject property. This site is identified below.

<u>Lower Elevation</u>	<u>Address</u>	<u>Direction / Distance</u>	<u>Map ID</u>	<u>Page</u>
PATTERSON CHEMICAL CO INC	102 3RD ST	SW 1/2 - 1 (0.901 mi.)	267	698

Based upon the absence of reported violations, it is considered unlikely that conditions associated with the identified RCRA-CORRACTS facility represent an environmental concern to the Subject Property.

**RCRA-LQG: Large Quantity Generator**

The RCRA database includes selected information for sites that generate hazardous wastes as defined by the Resource Conservation and Recovery Act (RCRA). Large quantity generators generate over 1,000 kilograms (kg) of hazardous waste, or over one kg of acutely hazardous waste per month. Classification as a Large Quantity Generator is reflective of a site's activity and does not necessarily indicate any non-compliance issues.

A review of the RCRA-LQG list has revealed that there are four large quantity generators within ¼ mile of the subject property. These sites are identified below:

<u>Equal/Higher Elevation</u>	<u>Address</u>	<u>Direction / Distance</u>	<u>Map ID</u>	<u>Page</u>
CON EDISON - MANHOLE 1820	62 BOND STREET	W 0 - 1/8 (0.085 mi.)	I29	51
<u>Lower Elevation</u>	<u>Address</u>	<u>Direction / Distance</u>	<u>Map ID</u>	<u>Page</u>
29 FLATBUSH ASSN LLC	29 FLATBUSH AVENUE	E 1/8 - 1/4 (0.129 mi.)	R94	192
PUBLIC SCHOOL 038 THE PACIFIC	450 PACIFIC STREET	S 1/8 - 1/4 (0.177 mi.)	AD132	285
CON EDISON - MANHOLE 55089	ROCKWELL PLACE & LAFAYE	ESE 1/8 - 1/4 (0.203 mi.)	AM159	343

Based upon the absence of open violations, it is considered unlikely that conditions associated with the identified RCRA Generator facilities represent an environmental concern to the Subject Property.

**RCRA-SQG: Small Quantity Generator**

The RCRA database includes selected information for sites that generate hazardous wastes as defined by the Resource Conservation and Recovery Act (RCRA). Small quantity generators (SQG) generate between 100 kg and 1,000 kg of hazardous waste per month. Classification as a Small Quantity Generator is reflective of a site’s activity and does not necessarily indicate any non-compliance issues.

A review of the RCRA-SQG list has revealed that there are three small quantity generators within ¼ mile of the subject property. These sites are identified below:

<u>Equal/Higher Elevation</u>	<u>Address</u>	<u>Direction / Distance</u>	<u>Map ID</u>	<u>Page</u>
MTA-NYCT EMERGENCY EXIT 102N & MTA NYCT - HOYT STREET - FULTO	ALBEE SQ & FULTON ST FULTON & DUFFIELD ST	NNW 1/8 - 1/4 (0.157 mi.) NNW 1/8 - 1/4 (0.191 mi.)	W115 A1146	239 313
<u>Lower Elevation</u>	<u>Address</u>	<u>Direction / Distance</u>	<u>Map ID</u>	<u>Page</u>
MTA NYCT - ASHLAND PLACE SUBST	LAFAYETTE & ASHLAND PL	ESE 1/8 - 1/4 (0.242 mi.)	AX199	428

Based upon the absence of open violations, it is considered unlikely that conditions associated with the identified RCRA Generator facilities represent an environmental concern to the Subject Property.

**RCRA-CESQG: Conditionally Exempt-Small Quantity Generators**

The RCRA database includes selected information for sites that generate hazardous wastes as defined by the Resource Conservation and Recovery Act (RCRA). Conditionally exempt small quantity generators generate less than 100kg of hazardous waste per month. Being a CESQG is not necessarily an indication of any release or problem.

A review of the RCRA-CESQG list has revealed that there are 12 conditionally exempt small quantity generators within ¼ mile of the subject property. These sites are identified below:

<u>Equal/Higher Elevation</u>	<u>Address</u>	<u>Direction / Distance</u>	<u>Map ID</u>	<u>Page</u>
CON EDISON	250 LIVINGSTON AVE 140	NW 0 - 1/8 (0.113 mi.)	P72	148
CON EDISON	BRIDGE ST & FULTON MALL	NW 1/8 - 1/4 (0.239 mi.)	AV191	411
<u>Lower Elevation</u>	<u>Address</u>	<u>Direction / Distance</u>	<u>Map ID</u>	<u>Page</u>
CON EDISON	NEVINS ST & LIVINGSTON	E 0 - 1/8 (0.063 mi.)	C12	27
CONSOLIDATED EDISON CO OF NY I	30 FLATBUSH AVE	ENE 0 - 1/8 (0.107 mi.)	J55	97
CON EDISON	98 BOND ST	WSW 1/8 - 1/4 (0.151 mi.)	108	216
NYCT - DEKALB AVE STATION D LI	COR OF DEKALB AVE &	NNE 1/8 - 1/4 (0.154 mi.)	Y112	227
LONG ISLAND UNIVERSITY	UNIVERSITY PLAZA	NE 1/8 - 1/4 (0.161 mi.)	117	244
RAINBOW DRY CLEANERS	391 PACIFIC ST	SW 1/8 - 1/4 (0.176 mi.)	AC126	259
CON EDISON MANHOLE: 48264	363 ATLANTIC AVE	W 1/8 - 1/4 (0.196 mi.)	AK151	321
CON EDISON MANHOLE: 2879	SCHERMERHORN ST & HOYT	WNW 1/8 - 1/4 (0.202 mi.)	AG155	331
CON EDISON	ROCKWELL PL & LAFAYETTE	ESE 1/8 - 1/4 (0.203 mi.)	AM161	346
MTA NYCT - FAN PLANTS #6340 &	3 LAFAYETTE AVE	ESE 1/8 - 1/4 (0.207 mi.)	AM166	362

Based upon the absence of open violations, it is considered unlikely that conditions associated with the identified RCRA Generator facilities represent an environmental concern to the Subject Property.

#### SHWS: State Hazardous Waste Sites

Data come from the Department of Environmental Conservation's Inactive Hazardous Waste Disposal Site in New York State.

A review of the SHWS list has revealed that there are five State Hazardous Waste Sites within 1 mile of the subject property. These sites are identified below:

<u>Equal/Higher Elevation</u>	<u>Address</u>	<u>Direction / Distance</u>	<u>Map ID</u>	<u>Page</u>
APEX THERMOPLASTICS INC.	100-110 BRIDGE ST	N 1/2 - 1 (0.938 mi.)	268	706
<u>Lower Elevation</u>	<u>Address</u>	<u>Direction / Distance</u>	<u>Map ID</u>	<u>Page</u>
GOWANUS CANAL SITE Class Code: Significant threat to the public health or environment - action required.	GOWANUS CANAL	SSW 1/4 - 1/2 (0.470 mi.)	BE252	652
FORMER O.Z. ELECTRICAL	198 DOUGLASS STREET	SSW 1/2 - 1 (0.509 mi.)	261	688
BROOKLYN NAVY YARD 13 ACRE PAR Class Code: Significant threat to the public health or environment - action required.	KENT AVENUE	NNE 1/2 - 1 (0.741 mi.)	264	693
BROOKLYN NAVAL YARD DEVELOPMEN	FLUSHING AVENUE & CUMBENNE	NNE 1/2 - 1 (0.807 mi.)	265	696

Based upon the distance relative to the Subject Property, it is considered unlikely that conditions associated with the identified State Hazardous Waste Sites represent an environmental concern to the Subject Property.

### SWF/LF: Solid Waste Facilities/ Landfill Sites

The Solid Waste Facilities/ Landfill Sites records typically contain an inventory of solid waste disposal facilities or landfill in a particular state.

A Review of the SWF/LF list has revealed that there are two solid waste facility/landfill sites within approximately ½ mile of the subject property. These sites are identified below:

<u>Lower Elevation</u>	<u>Address</u>	<u>Direction / Distance</u>	<u>Map ID</u>	<u>Page</u>
BASIN HAULAGE INC. I	462-470 BALTIC STREET	SSW 1/4 - 1/2 (0.407 mi.)	236	556
BALTIC RECYCLING CORP.	524-26 BALTIC STREET	SSW 1/4 - 1/2 (0.423 mi.)	240	561

Based upon the absence of reported violations, it is considered unlikely that conditions associated with the identified sites represent an environmental concern to the Subject Property.

### LTANKS: NYSDEC Leaking Storage Tank Incident Reports

This database is an inventory of leaking tanks reported from April 1, 1986 through the most recent update. These tanks can be either leaking USTs or ASTs.

A review of the LTANKS list has revealed that there are 60 leaking storage tank sites within ½ mile of the subject property. 13 of these sites are located within ¼ mile of the subject property. These sites are identified below:

<u>Equal/Higher Elevation</u>	<u>Address</u>	<u>Direction / Distance</u>	<u>Map ID</u>	<u>Page</u>
SPILL NUMBER 0101538 Spill Number/Closed Date: 0101538 / 7/23/2003	40 NEVINS ST	SE 0 - 1/8 (0.046 mi.)	A2	8
NYC DEPT. OF SOC. SER.BDG Spill Number/Closed Date: 0311816 / 3/6/2006 Spill Number/Closed Date: 9812016 / 3/19/1999	210 LIVINGSTON STREET	NW 1/8 - 1/4 (0.201 mi.)	AL153	325
APARTMENT BUILDING Spill Number/Closed Date: 0409183 / 3/8/2005	1 HOYT STREET	NW 1/8 - 1/4 (0.214 mi.)	AO173	379
TANK TEST FAIL TTF Spill Number/Closed Date: 1214526 / Not Reported	404 ALBEE SQ	NNW 1/8 - 1/4 (0.223 mi.)	AR179	387

<u>Lower Elevation</u>	<u>Address</u>	<u>Direction / Distance</u>	<u>Map ID</u>	<u>Page</u>
COMMUNITY LIVING Spill Number/Closed Date: 0209832 / 9/30/2003 Spill Number/Closed Date: 0104574 / 11/26/2008	50 NEVINS STREET	SE 0 - 1/8 (0.058 mi.)	A3	10
CONSOLIDATED EDISON Spill Number/Closed Date: 0504778 / 9/23/2005	30 FLATBUSH AVE	ENE 0 - 1/8 (0.107 mi.)	J56	99
438-440 ATLANTIC AVENUE Spill Number/Closed Date: 9514297 / 2/9/1996	438-440 ATLANTIC AVENUE	SSW 0 - 1/8 (0.110 mi.)	N64	121
430 PACIFIC STREET Spill Number/Closed Date: 0707748 / 10/15/2007	430 PACIFIC STREET	SSW 1/8 - 1/4 (0.165 mi.)	119	249
CHASE METROTECH CENTER Spill Number/Closed Date: 9709176 / 11/6/1997	CHASE METROTECH CENTER	1/8 - 1/4 (0.170 mi.)	AB123	253
BROOKLYN ACADEMY OF MUSIC Spill Number/Closed Date: 9709843 / 3/3/2003	FULTON ST & ROCKWELL PL	E 1/8 - 1/4 (0.176 mi.)	AB129	278
HORSEMEN ANTIQUE TTF Spill Number/Closed Date: 1305024 / 10/9/2013	351 ATLANTIC AVE	W 1/8 - 1/4 (0.220 mi.)	AQ177	383
LOT 29, TAXBLOCK 191 Spill Number/Closed Date: 0908933 / 9/30/2010	490 PACIFIC STREET	SSE 1/8 - 1/4 (0.228 mi.)	AT183	393
APRT Spill Number/Closed Date: 0711692 / 9/4/2008	25 LAFAYTEE AVE	ESE 1/8 - 1/4 (0.248 mi.)	AU204	445

All the LTANKS sites located within 1/8 mile of the Subject Property have been closed by the New York State Department of Environmental Conservation (NYSDEC), and based upon the current regulatory status are considered unlikely to represent an environmental concern to the Subject Property.

#### UST: Petroleum Bulk Storage Database

The Underground Storage Tank database lists registered USTs. USTs are regulated under Subtitle I of the Resource Conservation and Recovery Act (RCRA). The data come from the Department of Environmental Conservation's Petroleum Bulk Storage (PBS) Database.

A review of the UST list has revealed that there are 13 underground storage tank sites within ¼ mile of the subject property. These sites are identified below:

<u>Equal/Higher Elevation</u>	<u>Address</u>	<u>Direction / Distance</u>	<u>Map ID</u>	<u>Page</u>
WASHINGTON MUTUAL BANK OF NEW CHERA REALTY & DEV. CO. OF BRO NYCITY WELFARE FACILITY	DEKALB AVE/FULTON ST 523-545 FULTON STREET 210 LIVINGSTON ST	NNW 1/8 - 1/4 (0.151 mi.) NNW 1/8 - 1/4 (0.191 mi.) NW 1/8 - 1/4 (0.201 mi.)	W109 A1143 AL152	217 309 322
<u>Lower Elevation</u>	<u>Address</u>	<u>Direction / Distance</u>	<u>Map ID</u>	<u>Page</u>
INSTITUTE FOR COMMUNITY LIVING NEVINS ASSOCIATES, LLC J. W. MAYS, INC. CENTRAL BROOKLYN MEDICAL GROUP 350 LIVINGSTON ST GENERAL TIRE SERVICE FC 80 DEKALB ASSOCIATES, LLC	50 NEVINS STREET 45 NEVINS STREET 10 HANOVER STREET 345 SCHERMERHORN STREET 350 LIVINGSTON STREET 472 ATLANTIC AVENUE 74 DEKALB AVENUE	SE 0 - 1/8 (0.058 mi.) SE 0 - 1/8 (0.059 mi.) NNE 0 - 1/8 (0.086 mi.) ESE 0 - 1/8 (0.107 mi.) ESE 0 - 1/8 (0.107 mi.) S 1/8 - 1/4 (0.131 mi.) NE 1/8 - 1/4 (0.194 mi.)	A5 A6 D30 M51 M53 S97 AE150	13 17 53 88 94 199 319
520 ATLANTIC AVE BROOKLYN ARMS HOTEL N/A VACANT LAND	520 ATLANTIC AVE 268 ASHLAND PL 301-309 STATE. ST	SSE 1/8 - 1/4 (0.202 mi.) E 1/8 - 1/4 (0.230 mi.) W 1/8 - 1/4 (0.232 mi.)	AH157 AU184 AN186	334 397 401

Based upon the absence of reported releases, it is considered unlikely that conditions associated with the identified Underground Storage Tank sites represent an environmental concern to the Subject Property.

#### AST: Petroleum Bulk Storage Database

The Aboveground Storage Tank (AST) Database lists registered ASTs. The data come from the Department of Environmental Conservation's Petroleum Bulk Storage (PBS) Database. A review of the AST list has revealed that there are 30 AST sites within ¼ mile of the subject property. 13 of these sites are within 1/8 mile of the subject property. These sites are identified below:

<u>Equal/Higher Elevation</u>	<u>Address</u>	<u>Direction / Distance</u>	<u>Map ID</u>	<u>Page</u>
J. W. MAYS, INC. 250 LIVINGSTON STREET	19-23 BOND STREET 250 LIVINGSTON STREET	NNW 0 - 1/8 (0.092 mi.) NW 0 - 1/8 (0.113 mi.)	31 P71	55 139
DAYTOP VILLAGE INC. PUBLIC SCHOOL 369-BROOKLYN ENGINE COMPANY 226 THE STATE HOUSE I, LLC FLATBUSH FULTON REALTY ASSOCIA JOSEPH B KOPPELMAN J W MAYS INC 423 ATLANTIC AVE 443/445 STATE STREET LIVINGSTON STREET REALTY ASSOC 25 FLATBUSH AVE	401 STATE STREET 387 STATE STREET 409 STATE STREET 410 STATE ST 542 FULTON ST 354 STATE ST 516 FULTON STREET 423 ATLANTIC AVE 443-445 STATE STREET 366 LIVINGSTON STREET 25 FLATBUSH AVENUE	SSW 0 - 1/8 (0.066 mi.) SW 0 - 1/8 (0.068 mi.) S 0 - 1/8 (0.069 mi.) SW 0 - 1/8 (0.071 mi.) NE 0 - 1/8 (0.096 mi.) WSW 0 - 1/8 (0.098 mi.) NNE 0 - 1/8 (0.103 mi.) SW 0 - 1/8 (0.113 mi.) SSE 0 - 1/8 (0.120 mi.) ESE 0 - 1/8 (0.122 mi.) E 0 - 1/8 (0.125 mi.)	E15 F17 E18 F19 G33 J4 K45 N74 84 M86 R50	30 33 37 39 58 60 79 153 177 180 187

Based upon the absence of reported releases, it is considered unlikely that conditions associated with the Aboveground Storage Tank sites represent an environmental concern to the Subject Property.

**VCP: Voluntary Cleanup Program**

The voluntary remedial program uses private monies to get contaminated sites remediated to levels allowing for the sites' productive use.

A review of the VCP list has revealed that there is one VCP within ¼ mile of the subject property. These sites are identified below:

<u>Equal/Higher Elevation</u>	<u>Address</u>	<u>Direction / Distance</u>	<u>Map ID</u>	<u>Page</u>
53 BOERUM PLACE (AKA 237-41 ST	231-241 STATE STREET	WNW 1/4 - 1/2 (0.412 mi.)	238	559

Based upon the current regulatory status and distance relative to the Subject Property, it is considered unlikely that conditions associated with the identified Voluntary Cleanup Site represent an environmental concern to the Subject Property.

**BROWNFIELDS:**

Brownfields are real property, the expansion, redevelopment, or reuse of which may be complicated by the presence of potential presence of a hazardous substance, pollutant or contaminant.

A review of the Brownfields list has revealed that there are two Brownfield sites within approximately ½ mile of the subject property. These sites are identified below:

<u>Lower Elevation</u>	<u>Address</u>	<u>Direction / Distance</u>	<u>Map ID</u>	<u>Page</u>
29 FLATBUSH AVENUE	29 FLATBUSH AVENUE	E 1/8 - 1/4 (0.129 mi.)	R93	190
166-180 MYRTLE AVENUE	166-180 MYRTLE AVENUE	N 1/4 - 1/2 (0.394 mi.)	233	554

Based upon the current regulatory status and distance relative to the Subject Property, it is considered unlikely that conditions associated with the identified Brownfield Sites represents an environmental concern to the Subject Property.



**NY SPILLS: Spill Information Database**

Data collected on spills is reported to the NYSDEC and is required by one or more of the following: Article 12 of the Navigation Law, 6 NYCRR Section 613.8, or 6 NYCRR Section 595.2. This list includes spills active as of April 1, 1986, as well as spills occurring since this date.

A review of the NY Spills list has revealed that there are 23 NY Spills sites within 1/8 of a mile of the subject property. These sites are identified below:

<u>Equal/Higher Elevation</u>	<u>Address</u>	<u>Direction / Distance</u>	<u>Map ID</u>	<u>Page</u>
MANHOLE 2882 Spill Number/Closed Date: 9902094 / 7/20/1999	LIVINGSTON ST / BOND ST	NW 0 - 1/8 (0.080 mi )	B21	43
ROADWAY Spill Number/Closed Date: 0808194 / 10/22/2008	BOND STREET AND LIVINGS	NW 0 - 1/8 (0.080 mi.)	B22	44
COMMERCIAL BUILDING Spill Number/Closed Date: 0412093 / 3/7/2005	233 SCHERMERHORN ST	NW 0 - 1/8 (0.113 mi.)	P69	135
CONSOLIDATED EDISON Spill Number/Closed Date: 0805056 / 8/27/2008 Spill Number/Closed Date: 0804657 / 8/27/2008	S/S LIVINGSTON ST 50'	NW 0 - 1/8 (0.113 mi.)	P73	149

<u>Lower Elevation</u>	<u>Address</u>	<u>Direction / Distance</u>	<u>Map ID</u>	<u>Page</u>
VAULT 4220 Spill Number/Closed Date: 9710399 / 1/2/1999	LIVINGSTON ST	E 0 - 1/8 (0.063 mi.)	C8	22
VAULT #5542 Spill Number/Closed Date: 9808031 / 12/30/2002	LIVINGSTON ST/NEVINS ST	E 0 - 1/8 (0.063 mi.)	C9	23
MANHOLE 1774 Spill Number/Closed Date: 9903200 / 4/15/2002	NEVINS & LIVINGSTON ST	E 0 - 1/8 (0.063 mi.)	C11	25
19 HANOVER PL Spill Number/Closed Date: 9814190 / 2/26/1999	19 HANOVER PL	N 0 - 1/8 (0.065 mi.)	D14	29
VAULT 1319 Spill Number/Closed Date: 0505903 / 10/12/2005	22-30 HANOVER PL	N 0 - 1/8 (0.066 mi.)	D16	32
MH 55959 Spill Number/Closed Date: 0104904 / 8/7/2001	6 & 8 NEVINS ST	ENE 0 - 1/8 (0.081 mi.)	G24	46
CONED BUILDING Spill Number/Closed Date: 0805496 / 8/13/2008	30 FLAT BUSH AVE	E 0 - 1/8 (0.095 mi.)	J32	57
534 FULTON ST Spill Number/Closed Date: 9515919 / 3/12/1996	534 FULTON ST	NE 0 - 1/8 (0.102 mi.)	K39	68
VAULT 1274 Spill Number/Closed Date: 9914024 / 3/26/2002 Spill Number/Closed Date: 9912709 / 7/10/2003	2 HANOVER PLACE	NNE 0 - 1/8 (0.103 mi.)	K44	76
IFO Spill Number/Closed Date: 0111310 / 4/2/2002	350 LIVINGSTON AVE	ESE 0 - 1/8 (0.107 mi.)	M50	87
60 LBS R-22 FREON RELEASED Spill Number/Closed Date: 0802266 / 6/17/2008	30 FLATBUSH AVE (CONED	ENE 0 - 1/8 (0.107 mi.)	J54	96
<b>CONSOLIDATED EDISON</b> Spill Number/Closed Date: 0607060 / 9/19/2006 Spill Number/Closed Date: 0706617 / 12/28/2007 Spill Number/Closed Date: 1005144 / 8/6/2010 Spill Number/Closed Date: 0705991 / 12/28/2007 Spill Number/Closed Date: 0605060 / 2/16/2007 <i>*Additional key fields are available in the Map Findings section</i>	<b>30 FLATBUSH AVE</b>	<b>ENE 0 - 1/8 (0.107 mi.)</b>	<b>J56</b>	<b>99</b>
70 LBS OF FREON 22 LEAKED Spill Number/Closed Date: 0708583 / 5/12/2008	30 FLATBUSH AVE. CON ED	ENE 0 - 1/8 (0.107 mi.)	J57	106
R22 FREON RELEASE Spill Number/Closed Date: 0600334 / 3/20/2008	HO 30 FLATBUSH AVE	ENE 0 - 1/8 (0.107 mi.)	J58	107
SIXTY LBS R-22 FREON ESCAPED T Spill Number/Closed Date: 0713767 / 5/19/2008	30 FLATBUSH AVE FLOOR	ENE 0 - 1/8 (0.107 mi.)	J60	118
CON ED 30 FLATBUSH AVE Spill Number/Closed Date: 1114003 / 5/4/2012	30 FLATBUSH AVE	ENE 0 - 1/8 (0.109 mi.)	J62	120
<b>LOT 30, TAXBLOCK 149</b> Spill Number/Closed Date: 0410563 / 12/28/2004 Spill Number/Closed Date: 9308853 / 10/21/1993	<b>557 FULTON STREET</b>	<b>N 0 - 1/8 (0.111 mi.)</b>	<b>O87</b>	<b>130</b>
MANHOLE 2858 Spill Number/Closed Date: 0006429 / 6/2/2003	BOND ST/FULTON ST	N 0 - 1/8 (0.124 mi.)	Q88	184
MANHOLE 02854 Spill Number/Closed Date: 0002611 / 5/29/2003	BOND ST & FULTON ST	N 0 - 1/8 (0.124 mi.)	Q89	186

All the SPILLS sites located within 1/8 mile of the Subject Property have been closed by the New York State Department of Environmental Conservation (NYSDEC), and based upon the

current regulatory status are considered unlikely to represent an environmental concern to the Subject Property.

#### FUDS: Formerly Used Defense Sites

The listing includes locations of Formerly Used Defense Sites Properties where the US Army Corps of Engineers is actively working or will take necessary cleanup actions.

A review of the FUDS list has revealed that there is one FUDS site within approximately 1 mile of the subject property. This site is identified below:

<u>Lower Elevation</u>	<u>Address</u>	<u>Direction / Distance</u>	<u>Map ID</u>	<u>Page</u>
NAVY BARRACKS BKLYN		NE 1/2 - 1 (0.863 mi.)	266	697

Based upon the current regulatory status and distance relative to the Subject Property, it is considered unlikely that conditions associated with the identified FUDS Site represent an environmental concern to the Subject Property.

#### ROD: Record of Decision

ROD documents mandate a permanent remedy at an NPL (Superfund) site containing technical and health information to aid the cleanup.

A review of the ROD list has revealed that there is one ROD site within approximately 1 mile of the subject property. This site is identified below:

<u>Lower Elevation</u>	<u>Address</u>	<u>Direction / Distance</u>	<u>Map ID</u>	<u>Page</u>
GOWANUS CANAL	BUTLER ST (BETWEEN BONDSSW 1/4 - 1/2 (0.470 mi.)		BE251	644

Based upon the current regulatory status and distance relative to the Subject Property, it is considered unlikely that conditions associated with the identified ROD represent an environmental concern to the Subject Property.

## DRYCLEANERS

A listing of all registered dry cleaning facilities.

A review of the DRYCLEANERS list has revealed that there is one DRYCLEANER within approximately ¼ mile of the subject property. This site is identified below:

<u>Lower Elevation</u>	<u>Address</u>	<u>Direction / Distance</u>	<u>Map ID</u>	<u>Page</u>
BOERUM HILL/RAINBOW DRY CLEANER	391 PACIFIC ST.	SW 1/8 - 1/4 (0.176 mi.)	AC127	276

Based upon the current regulatory status and distance relative to the Subject Property, it is considered unlikely that conditions associated with the identified Drycleaner represent an environmental concern to the Subject Property.

## NY E-Designation

Lots designation with an "E" on the Zoning Maps of the City of New York for potential hazardous material contamination, air and/or noise quality impacts.

A review of the NY E-Designation list, as provided by EDR, has revealed that there are 21 E-Designation Sites within approximately 1 mile of the subject property. These sites are listed below:

<u>Equal/Higher Elevation</u>	<u>Address</u>	<u>Direction / Distance</u>	<u>Map ID</u>	<u>Page</u>
LOT 29, TAXBLOCK 160	263 LIVINGSTON STREET	NNW 0 - 1/8 (0.059 mi.)	B7	19
LOT 29, TAXBLOCK 165	254 LIVINGSTON STREET	NW 0 - 1/8 (0.110 mi.)	P66	125
<u>Lower Elevation</u>	<u>Address</u>	<u>Direction / Distance</u>	<u>Map ID</u>	<u>Page</u>
LOT 27, TAXBLOCK 161	526 FULTON STREET	NNE 0 - 1/8 (0.100 mi.)	K36	64
LOT 18, TAXBLOCK 161	532 FULTON STREET	NE 0 - 1/8 (0.101 mi.)	K37	65
LOT 33, TAXBLOCK 161	522 FULTON STREET	NNE 0 - 1/8 (0.101 mi.)	K38	67
LOT 17, TAXBLOCK 149	531 FULTON STREET	NNE 0 - 1/8 (0.102 mi.)	K40	70
LOT 19, TAXBLOCK 149	579 FULTON STREET	NNE 0 - 1/8 (0.102 mi.)	K41	71
LOT 15, TAXBLOCK 149	585 FULTON STREET	NNE 0 - 1/8 (0.103 mi.)	K42	73
LOT 30, TAXBLOCK 161	518 FULTON STREET	NNE 0 - 1/8 (0.103 mi.)	K43	74
LOT 14, TAXBLOCK 149	589 FULTON STREET	NE 0 - 1/8 (0.104 mi.)	K46	81
LOT 22, TAXBLOCK 149	573 FULTON STREET	NNE 0 - 1/8 (0.104 mi.)	K47	82
LOT 42, TAXBLOCK 167	345 SCHERMERHORN STREET	ESE 0 - 1/8 (0.107 mi.)	M52	91
LOT 13, TAXBLOCK 160	509 FULTON STREET	N 0 - 1/8 (0.110 mi.)	O65	122
LOT 30, TAXBLOCK 149	557 FULTON STREET	N 0 - 1/8 (0.111 mi.)	O67	130
LOT 28, TAXBLOCK 149	559 FULTON STREET	N 0 - 1/8 (0.117 mi.)	O75	156
LOT 26, TAXBLOCK 149	563 FULTON STREET	N 0 - 1/8 (0.117 mi.)	O76	158
LOT 32, TAXBLOCK 149	553 FULTON STREET	N 0 - 1/8 (0.118 mi.)	O80	170
LOT 15, TAXBLOCK 167	356 LIVINGSTON STREET	ESE 0 - 1/8 (0.119 mi.)	M81	172
LOT 16, TAXBLOCK 167	358 LIVINGSTON STREET	ESE 0 - 1/8 (0.120 mi.)	M82	174
LOT 33, TAXBLOCK 149	551 FULTON STREET	N 0 - 1/8 (0.120 mi.)	O83	175
LOT 34, TAXBLOCK 149	547 FULTON STREET	N 0 - 1/8 (0.124 mi.)	O87	183

Based upon the current regulatory status, it is considered unlikely that conditions associated with the identified E-Designation sites represent an environmental concern to the Subject Property.

#### MGP: Manufactured Gas Plants

A review of the EDR MGP list, as provided by EDR, has revealed that there are three EDR MGP sites within approximately 1 mile of the subject property. These sites are listed below:

<u>Equal/Higher Elevation</u>	<u>Address</u>	<u>Direction / Distance</u>	<u>Map ID</u>	<u>Page</u>
FRONT STREET STATION	BRIDGE ST, FRONT ST, GO	N 1/2 - 1 (0.967 mi.)	269	709
<u>Lower Elevation</u>	<u>Address</u>	<u>Direction / Distance</u>	<u>Map ID</u>	<u>Page</u>
FULTON WORKS	DEGRAW STREET AND NEVINSSW	1/2 - 1 (0.548 mi.)	262	692
FULTON MUNICIPAL WORKS	NEVINS, DEGRAW AND SACK SSW	1/2 - 1 (0.583 mi.)	263	693

Based upon the current regulatory status and distance relative to the Subject Property, it is considered unlikely that conditions associated with the identified MGP Sites represent an environmental concern to the Subject Property.

### 5.3 Vapor Encroachment Screen

Galli Engineering conducted a vapor migration screening survey of the Subject Property. Galli's site observations and review of the environmental database report (cited in Section 5.2) did not identify any conditions on the Subject Property or on adjoining properties that would indicate a REC relative to vapor migration exists at the Subject Property.

This vapor migration screening was conducted in accordance with ASTM E1527-13 and is not intended to satisfy the requirements of ASTM E2600-10. The scope of this screening was limited to visual observations of review of the environmental database report and did not include the collection and laboratory analysis of air samples to confirm the presence of airborne contaminants by vapor intrusion.

### 5.4 Site History

The purpose of reviewing historical use sources is to identify any prior use of the property or adjoining properties, which could lead to the presence of recognized environmental conditions that may adversely affect the property. Galli Engineering retained Environmental Data Resources, Inc. (EDR) to provide available historical information for the subject property. Copies of this historical documentation are provided in Appendix F.

Aerial photographs were available from EDR for the years of 1905 through 2011. Copies of the aerial photographs are included in Appendix F. The following historical information was extracted from the aerial photographs.

Aerial Photograph Summary	
Year	Observations
1924	<b>Subject Property:</b> The Subject Property is developed with a commercial building.
	<b>Surrounding Area:</b> Surrounding properties to the north, south, east and west are developed with several commercial and residential buildings.
1954	<b>Subject Property:</b> The Subject Property is developed with a commercial building.
	<b>Surrounding Area:</b> Surrounding properties to the north, south, east and west are developed with several commercial and industrial buildings.
1966	<b>Subject Property:</b> The Subject Property is developed with a commercial building.

Aerial Photograph Summary	
Year	Observations
	<b>Surrounding Area:</b> Surrounding properties to the north, south, east and west are developed with several commercial and industrial buildings.
1984	<b>Subject Property:</b> The Subject Property is developed with a commercial building. <b>Surrounding Area:</b> Surrounding properties to the north, south, east and west are developed with several commercial and industrial buildings.
1994	<b>Subject Property:</b> The Subject Property is developed with a commercial building. <b>Surrounding Area:</b> Surrounding properties to the north, south, east and west are developed with several commercial and industrial buildings.
2011	<b>Subject Property:</b> The Subject Property is developed with a commercial building. <b>Surrounding Area:</b> Surrounding properties to the north, south, east and west are developed with several commercial and industrial buildings.

Sanborn Maps were available from EDR for the years 1886 through 2007. Copies of the Sanborn Maps are included in Appendix F. The following historical information was extracted from the Sanborn Maps.

Sanborn Map Summary	
Year	Observations
1887	<b>Subject Property:</b> The Subject Property is developed as a three-story apartment building. <b>Surrounding Properties:</b> Surrounding properties are developed as residential apartment buildings.
1915	<b>Subject Property:</b> The Subject Property is developed as a four-story apartment building. <b>Surrounding Properties:</b> Surrounding properties are developed as residential apartment buildings.
1950	<b>Subject Property:</b> The Subject Property is occupied by the Brooklyn Bureau of Social Service and Children's Aid. <b>Surrounding Properties:</b> Surrounding properties are developed with residential apartments and commercial buildings.
1979	<b>Subject Property:</b> The Subject Property is occupied by the Brooklyn Bureau of Social Service. <b>Surrounding Properties:</b> Surrounding properties are developed with residential apartments and commercial buildings.
1995	<b>Subject Property:</b> The Subject Property is occupied by the Brooklyn Bureau of Social Service. <b>Surrounding Properties:</b> Surrounding properties are developed with commercial buildings.
2007	<b>Subject Property:</b> The Subject Property is occupied by the Brooklyn Bureau of Social Service. <b>Surrounding Properties:</b> Surrounding properties are developed with commercial buildings.

USGS Historic Topographic Maps were available from EDR for the years 1900 through 1995. Copies of the Topographic Maps are included in Appendix F. The following historical information was extracted from the Topographic Maps.

<b>Topographic Map Summary</b>	
Year	Observations
1900	<b>Subject Property:</b> The Subject Property is shaded to represent urban development; no distinct structures or other notable features are depicted.
	<b>Surrounding Properties:</b> The surrounding properties are shaded to represent urban development; no distinct structures or other notable features are depicted.
1947	<b>Subject Property:</b> The Subject Property is shaded to represent urban development; no distinct structures or other notable features are depicted.
	<b>Surrounding Properties:</b> The surrounding properties are shaded to represent urban development; no distinct structures or other notable features are depicted.
1979	<b>Subject Property:</b> The Subject Property is shaded to represent urban development; no distinct structures or other notable features are depicted.
	<b>Surrounding Properties:</b> The surrounding properties are shaded to represent urban development; a number of churches and commercial buildings in the vicinity are depicted. Increased development in the surrounding area compared to the 1947 map is depicted.
1995	<b>Subject Property:</b> The Subject Property is shaded to represent urban development; no distinct structures or other notable features are depicted.
	<b>Surrounding Properties:</b> The surrounding properties are shaded to represent urban development; a number of churches and commercial buildings in the vicinity are depicted. Increased development in the surrounding area compared to the 1979 map is depicted.

City directories are commercial publications containing names and addresses, and in many cases, occupations of the occupants of a particular community. The directories may also contain information pertaining to business processes conducted within a community. A search for historical city directories was conducted by Environmental Data Resources, Inc. (EDR). Historical city directories were reviewed and are summarized in the following table. Copies of the city directories are presented in Appendix F.



<b>City Directory Summary</b>	
<b>Year</b>	<b>Occupants</b>
1928	(Building Occupant)
1934	(Building Occupant)
1960	(Building Occupant)
1976	(Building Occupant)
1985	(Building Occupant)
1997	(Building Occupant)
2000	(Building Occupant)
2005	(Building Occupant)
2008	(Building Occupant)
2013	(Building Occupant)

## 6.0 LIMITED SCOPE INVESTIGATION OF POSSIBLE LEAD PAINT

The element lead has no function in the body. It can have poisonous effects on human organs and the nervous system, causing a variety of toxic reactions. Since lead accumulates in the body more rapidly than it can be removed, repeated exposures even to small amounts may produce lead poisoning. In addition, deteriorating lead components may allow lead to become airborne. Threshold limit values have been established at 0.15 mg/m<sup>3</sup> (in air) by the American Conference of Governmental Industrial Hygienists. The regulated concentration of lead detected in paint is defined as above 0.5% lead by weight (or 5,000-ppm) in Title IV of the Toxic Substances Control Act (TSCA).

Painted surfaces were in generally good condition. Peeling paint was observed during the site inspection, in the basement and on the seventh floor landing. Due to the age of the subject property building, lead based paint is suspected.

## 7.0 RADON

Radon is a heavy colorless, odorless, radioactive gas formed by the radioactive decay of radium. Radon is associated with specific geologic formations that contain granite, uranium minerals and certain shale and phosphate related minerals. Radon, a gas, can migrate to and accumulate in confined spaces, such as building basements. Continued exposure to radon gas has been associated with increased lung cancer risk and possible genetic damage.

The USEPA has set an action level of 4 pico curies per liter (pCi/L) in air. At concentrations above this level, the USEPA recommends measures to lower the concentrations. A "Map of Radon Zones" indicates the levels of radon concentrations from testing and aerial surveys conducted in all counties in New York State. The subject property is located in Federal EPA Radon Zone 3, which is defined as an area having an indoor radon average of <2.0 pCi/L. Maps depicting the indoor radon living and basement areas of Kings County are included in Appendix E.

In light of this information, and the ASTM guidelines, radon concentrations are not an environmental concern for the subject property.

## 8.0 ASBESTOS CONTAINING MATERIAL

Asbestos has been linked to various types of lung diseases. Various regulatory agencies have tolerance limits of 1% by weight for asbestos in materials. Any material that contains asbestos levels above this limit may be considered hazardous and may have to be abated.

This Phase I assessment is not a full asbestos survey as would be required for building demolition, or identification of all possible sources of ACM, regardless of health risk. This assessment merely addresses observed suspect asbestos containing materials (ACM's) that may pose a health threat.

Suspect asbestos containing materials in the form of roofing materials were observed during the site inspection.

Asbestos may be present in some of the roofing, flooring, wall and ceiling materials, caulking/putties, adhesives, spackling compounds, and insulation materials, as well as other building materials that may be used at the Subject Property. Sampling many of these materials requires techniques that may be destructive to subject facilities, and in the case of roofing material, may void warranties. It is recommended that an asbestos inspection be performed in accordance with all applicable federal, state, and local regulatory requirements prior to renovation, demolition, or other activities that could cause a material disturbance. Any removal or disturbance of ACM or suspect ACM should be performed by properly trained personnel and in compliance with federal, state, and local regulations.

## 9.0 PROXIMITY OF PROPERTY TO SENSITIVE ECOLOGICAL AREAS

During the site inspection, Galli Engineering did not identify any ecologically sensitive areas, i.e. wetlands, floodplains, within the subject site. Based on review of the Federal Wetland Inventory, no wetland areas were identified in the immediate vicinity of the subject property.

Therefore, in accordance with the ASTM guidelines and the NYSDEC ecological regulations, ecological areas are not an environmental concern and no restrictions on land development are indicated at the subject property.

## 10.0 SITE CHARACTERISTICS

### 10.1 Physiography and Topography

The subject property is located within the New England physiographic province. Elevations in the area within a one mile radius of the subject property are approximately 13-92 feet above sea level.

The U.S.G.S 7.5 Minute (Topographic) Map of Brooklyn, NY indicates that the elevation of the subject site is approximately 41 feet above sea level. The general topographic gradient is to the south. The approximate geographical location is (Latitude/Longitude).

### 10.2 Geology

The geology of this section of Brooklyn is composed of upper cretaceous coastal plain deposits (0-600 meters in depth) with silty clay, glauconitic sandy clay, sand and gravel. It is part of the Magothy Formation, which contains the Matawan and Monmouth groups. The surficial geology of this section of Brooklyn is proglacial fluvial deposits of outwash sand and gravel, and coarse to fine gravel with sand.

### 10.3 Soils

The United States Department of Agriculture (USDA) Soil Conservation Service (SCS) information indicates that the soils on the subject property are classified as Urban Land. This soil type is described as variable. The soil surface textures include loamy sand, silt loam, sandy loam and fine sandy loam. The surficial surface types include loamy sand, silt loam, sandy loam and fine sandy loam. The shallow soil types are sandy loam. The deeper soil types are very gravelly – loamy sand, unweathered bedrock and sandy loam.

#### 10.4 Surface and Groundwater Resources

No surface water features are located in close proximity to the subject property. Groundwater is not used as potable water in Kings County. 58 Federal United States Geologic Survey (USGS) wells were identified within a one-mile radius. One Federal FRDS Public Water Supply (PWS) System wells and no State wells were found within one mile of the subject property. Detailed information on wells is provided in the EDR report (see Appendix C).

## 11.0 PREVIOUS SITE INVESTIGATIONS

No previous studies have been identified by the client for the subject property.



## 12.0 CONCLUSIONS AND RECOMMENDATIONS

### Conclusions:

Galli Engineering, P.C. has performed this Phase I Environmental Site Assessment of the property located at (Site Address), Brooklyn, NY in accordance with the scope and limitations of ASTM E-1527-13. Based upon Galli Engineering's Phase I investigation, the following site environmental conditions exist.

- One active/in-service 1,500-gallon aboveground petroleum storage tank was present on the subject property at the time of the site inspection.
- One out-of-use 1,000-gallon petroleum storage tank was present on the subject property at the time of the site inspection.
- Galli Engineering reviewed the regulatory database and the New York State Department of Environmental Conservation (NYSDEC) website, however, the Subject Property ASTs do not appear to be registered on the Petroleum Bulk Storage (PBS) tank database as required. This represents an administrative deficiency in connection with the Subject Property.
- Galli Engineering conducted a limited visual screening survey for the presence of suspect LBP at the Subject Property. Based on the date of construction, the painted surfaces at the Subject Property are considered to be suspect LBP. The painted surfaces at the Subject Property were generally observed to be in good condition, but areas of chipping or peeling paint were observed in the basement and seventh floor landing at the time of inspection.
- Galli Engineering conducted a limited visual screening survey for the presence of asbestos-containing materials (ACM) at the Subject Property. Galli identified non-friable suspect ACM in the form of roofing materials. These materials were observed to be undamaged and in good condition at the time of assessment. Please note that this survey was limited to visual observations of accessible areas and that the scope of work for this assessment did not include the collection and laboratory analysis of bulk samples of undamaged suspect ACM. Additional suspect ACM may be present in inaccessible areas, including, but not limited to, roofs, pipe chases behind solid walls and ceilings, concealed floor coverings, the interior of machinery or equipment, or water and sewer

systems. Based on the condition of suspect ACM, these materials do not currently pose a significant environmental threat to the occupants of the Subject Property. Suspect ACM do not present a problem when maintained in good condition. However, additional sampling, removal, and disposal arrangements may be necessary should building construction or renovation activities be conducted. Asbestos is a condition outside the scope of ASTM E 1527-13 and is not considered a recognized environmental condition (REC).

**Recommendations:**

- The Subject Property petroleum storage tanks should be registered with the NYSDEC as required.
- A comprehensive asbestos inspection should be conducted prior to significant renovation or demolition of the building.
- The out-of-service #6 fuel oil tank should be removed if no longer needed.

### 13.0 LIMITATIONS

The purpose of this investigation was to identify potential sources of contamination at the property, and to satisfy the all-appropriate inquiry standard set forth in Section 9601 (35-b) of CERCLA. The findings and conclusions set forth in this report are based upon information that was available to Galli Engineering, P.C. during its inspection of the property, and after review of selected records and documents. If new information becomes available concerning the property after this date, or if the property is used in a manner other than that which is identified in this report, the findings and conclusions contained herein may have to be modified. Additionally, while this investigation was performed in accordance with good commercial and customary practice and protocols generally accepted within the consulting industry, Galli Engineering, P.C. cannot guarantee that the property is completely free of hazardous substances or other materials or conditions that could subject (Client Name) to potential liability. The presence or absence of any such condition can only be confirmed through the collection and analysis of soil and groundwater samples, which was beyond the scope of this investigation.

Future events and/or investigation could change the findings stated herein. Should additional investigations encounter differing conditions, sections of this report may require modification.

I declare that, to the best of my professional knowledge and belief, I meet the definition of environmental professional as defined in §312.10 of 40 CFR 312 and I have the specific qualifications based on education, training, and experience to assess a property of the nature, history, and setting of the subject property. I have developed and performed the all appropriate inquiries in conformance with the standards and practices set forth in 40 CFR Part 312.

GALLI ENGINEERING, P.C.

4-24-14

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Richard D. Galli, P.E.

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Date

President



Designation: E1527 – 13

## Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process<sup>1</sup>

This standard is issued under the fixed designation E1527; the number immediately following the designation indicates the year of original adoption or, in the case of revision, the year of last revision. A number in parentheses indicates the year of last reapproval. A superscript epsilon ( $\epsilon$ ) indicates an editorial change since the last revision or reapproval.

### 1. Scope

1.1 *Purpose*—The purpose of this practice is to define good commercial and customary practice in the United States of America for conducting an *environmental site assessment*<sup>2</sup> of a parcel of *commercial real estate* with respect to the range of contaminants within the scope of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 U.S.C. §9601) and *petroleum products*. As such, this practice is intended to permit a *user* to satisfy one of the requirements to qualify for the *innocent landowner*, *contiguous property owner*, or *bona fide prospective purchaser* limitations on CERCLA liability (hereinafter, the “*landowner liability protections*,” or “*LLPs*”): that is, the practice that constitutes *all appropriate inquiries* into the previous ownership and uses of the *property* consistent with good commercial and customary practice as defined at 42 U.S.C. §9601(35)(B). (See Appendix X1 for an outline of CERCLA’s liability and defense provisions.) Controlled substances are not included within the scope of this standard. Persons conducting an *environmental site assessment* as part of an EPA Brownfields Assessment and Characterization Grant awarded under CERCLA 42 U.S.C. §9604(k)(2)(B) must include controlled substances as defined in the Controlled Substances Act (21 U.S.C. §802) within the scope of the assessment investigations to the extent directed in the terms and conditions of the specific grant or cooperative agreement. Additionally, an evaluation of *business environmental risk* associated with a parcel of *commercial real estate* may necessitate investigation beyond that identified in this practice (see Sections 1.3 and 1.3).

1.1.1 *Recognized Environmental Conditions*—In defining a standard of good commercial and customary practice for conducting an *environmental site assessment* of a parcel of

*property*, the goal of the processes established by this practice is to identify *recognized environmental conditions*. The term *recognized environmental conditions* means the presence or likely presence of any *hazardous substances* or *petroleum products* in, on, or at a *property*: (1) due to any *release* to the *environment*; (2) under conditions indicative of a *release* to the *environment*; or (3) under conditions that pose a *material threat* of a future *release* to the *environment*. *De minimis* conditions are not *recognized environmental conditions*.

1.1.2 *Petroleum Products*—*Petroleum products* are included within the scope of this practice because they are of concern with respect to many parcels of *commercial real estate* and current custom and usage is to include an inquiry into the presence of *petroleum products* when doing an *environmental site assessment* of *commercial real estate*. Inclusion of *petroleum products* within the scope of this practice is not based upon the applicability, if any, of CERCLA to *petroleum products*. (See X1.1.2.1 for discussion of *petroleum exclusion* to CERCLA liability.)

1.1.3 *CERCLA Requirements Other Than Appropriate Inquiries*—This practice does not address whether requirements in addition to *all appropriate inquiries* have been met in order to qualify for the *LLPs* (for example, the duties specified in 42 U.S.C. §9607(b)(3)(a) and (b) and cited in Appendix X1, including the continuing obligation not to impede the integrity and effectiveness of *activity and use limitations* (AULs), or the duty to take reasonable steps to prevent releases, or the duty to comply with legally required release reporting obligations).

1.1.4 *Other Federal, State, and Local Environmental Laws*—This practice does not address requirements of any state or local laws or of any federal laws other than the *all appropriate inquiries* provisions of the *LLPs*. *Users* are cautioned that federal, state, and local laws may impose environmental assessment obligations that are beyond the scope of this practice. *Users* should also be aware that there are likely to be other legal obligations with regard to *hazardous substances* or *petroleum products* discovered on the *property* that are not addressed in this practice and that may pose risks of civil and/or criminal sanctions for non-compliance.

<sup>1</sup> This practice is under the jurisdiction of ASTM Committee E50 on Environmental Assessment, Risk Management and Corrective Action and is the direct responsibility of Subcommittee E50.02 on Real Estate Assessment and Management.

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<sup>2</sup> All definitions, descriptions of terms, and acronyms are defined in Section 3. Whenever terms defined in 3.2 are used in this practice, they are in *italics*.

### Compliments of EDR



January 26, 2015

John P.Reali, Attorney at Law  
410 Jericho Turnpike, Suite 220  
Jericho, NY 11753

File# 2015-5555  
ABC Trucking Company, Inc.  
789 Wantagh Avenue  
Wantagh, NY

Dear Mr. Reali:

The following is an overview of the Building Department process for a proposed auto car dealership in the Town of Hempstead. There will be a need for research of the Building Department Records, Town Clerks Office for any prior Town Board Hearings, prior Board of Appeals hearings and any Engineering Department requirements. Note that this is not limited to those departments depending on prior USES approved by the Town. To propose an Auto Type USE the Town will require a public hearing in front of the Town Board since there will be auto repair being proposed as part of the overall use. I strongly recommend that a Title Company prepare a report as to any violations or history that may impact on your clients purchase. It is important to see if there are any restrictions placed on the property which may need modifications to secure a permit. Also if the property is over one acre in size there will be a need for what is known as a 305 Site Plan Approval. In addition to possible 239 F Nassau County DPW approval, Nassau County Fire Marshal's Office and possibly Nassau County Board of Health for sub-surface tanks, environmental requirements and possible food services if any food is to be prepared and sold.

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Once the research is completed we will be able to further advise you as to the process, requirements and opinion for a project of this nature.

If your clients proposed USE does not meet the current zoning requirements there may be a need for a Board of Appeals and Town Board Hearing depending on the level of renovation and proposed use. Also parking will be important to maintain enough off street parking for the proposed use.

This process could take at least one year if not longer with no guarantee for an approval. I am also providing you with a copy of a radius maps and other documents that your client can review for this project project prior to closing on this property.

Please review this outline which will also help you in this process.

### **REPORT, FINDINGS, REQUIREMENTS and OPINIONS**

#### **ADDITIONAL INFORMATION WHICH MAY OR MAY NOT PERTAIN TO YOUR PROPERTY**

This firm will provide the following services:

Measure conditions, draft plans, process applications, file, and review with Plan Examiner, when approved, obtain permits, arrange inspections, when approved, and Obtain the final certificates.

All conditions MUST meet the NYS Building Code. Any modifications and/or upgrades are at the owner's own expense. All approvals are at the discretion of the municipal agency having jurisdiction. Even if permits are issued, there is a possibility that the Area Inspector could require a change. All maintains are legalized with the understanding that RMB Drafting Services, Inc. did not build or construct these conditions.

Therefore, we cannot be responsible for these requirements or the timeframe and expense for any upgrades to obtain approvals. Since these conditions exist, there is a possibility that a Local Zoning Variance and/or State Code Variance may be required. During plan review a Plan Examiner renders a determination.

#### **FEMA and Flood Elevation Requirements. (IMPORTANT ISSUE)**

This firm is not responsible for the flood elevation requirements that may affect the approval process. It is possible that the existing or proposed conditions will not meet the current requirements for FEMA Floor Elevations.

These requirements are subject to Federal regulations, which could require major modifications to the existing or proposed conditions. It is possible that no finished or mechanical equipment will be permitted in the area of question. It is possible that you may have to relocate or remove the violations at your cost. Regardless of what is filed RMB and its affiliates are not responsible for these requirements.

One option would be to file for variances at each agency, if permitted. If you are approved, note that your insurances for this property could increase and is not listed in our services and or the responsibility of RMB. Please see [www.fema.gov](http://www.fema.gov) for additional information that may help you understand this important requirement.

There is no guarantee for any approval and the ultimate responsibility is at the owner's expense

If your property is within one mile of a body of water you will be required to comply with the windborne debris section of the newly adopted state code. Which means reconstruction and or modifications to framing connections, impact resistant glazing and or storm shutters, along with additional items as applicable.

If your property size is in excess of an acre or the project meets the additional requirements the New York State Department of Environmental Conservation it may warrant a SPDES approval. The client and their civil design professionals shall endeavor to secure the same. Please refer to the following websites for pertinent information relating to this topic.

<http://www.dec.ny.gov/chemical/43133.html> <http://www.dec.ny.gov/imsinaps/stormwater/viewer.htm>

### §RP3008 BACKWATER VALVES

**§RP3008.1 General.** Fixtures that have flood level rims located below the elevation of the next upstream manhole cover of the public sewer serving such fixtures shall be protected from backflow of sewage by installing an approved backwater valve. Fixtures having flood level rims above the elevation of the next upstream manhole shall not discharge through the backwater valve. Backwater valves shall be provided with access.

**Exception:** Except as otherwise permitted by the code enforcement official in accordance with the authority regulating the public sewer system.

**§RP3008.2 Construction.** Backwater valves shall have noncorrosive bearings, seats and self-aligning discs, and shall be constructed to ensure a positive mechanical seal. Valve access covers shall be water tight.

If a variance is noted and was not part of our original contract, a revised contract will be issued. It is our intent to provide you with a service to obtain certificates. However, in some cases the town or municipal agency having jurisdiction can require items be constructed, added, upgraded or filed for, that are not listed in our research report. If this occurs, we will advise you properly. The owner of the property has the ultimate responsibility for these requirements and expense.

If you have a "Time of the Essence" issue relating to a closing and or escrow agreement, it is the responsibility of the owner or authorized agent to submit in writing to RMB Drafting Services, Inc. a copy of said document. This should include a cover letter indicating in detail the time frame for completion of this project. Also be advised that even if this is received, it does not constitute that the project will be completed within that time frame.

The owner is responsible for hiring all contractors and sub-contractors for any work; this would include construction, electric and/or plumbing that may be required for any upgrading. If you require this firm to recommend and/or hire any contractor for any possible upgrading, please note that a service fee will be charged at an hourly rate.

If this is a **commercial project**, which you need to start excavation of an area within and around your property, it is the responsibility of the **Contractor of Record** and or **Owner** to contact the "Call Center" before any digging begins. The Call Center number is 1-800-272-4480. Keep records of the person you spoke to, date, time and any records you filed in reference to this issue. RMB is not responsible for any filings and or contact with any Call Center.

There may also be a need to secure a NYS Department of Labor Boiler Inspection for the existing or new heating system. Although the local municipality may not require this for your Certificate of Occupancy, it is possible that in the future you or your client may need to secure this type of inspection. Note that our search of municipal records DOES NOT include any searches at the NYS Department of Labor. Nor are we responsible for any future or previous inspections or compliance of NYS DOL requirements.

As previously stated, any structure built without the benefit of an original approval from the municipal agency of record may require some upgrades to the existing conditions.

Common occurrences, in some instances are as follows: Installation of fire rated sheet rock over and around the heating system, hand rails on any structure above a certain height, including, but not limited to, stairs, means of egress windows in rooms or areas, fans in bathrooms with no windows, replacement of PVC underground piping to cast iron in existing bathrooms, removal of additional sinks or illegal apartments not to code, installation of smoke detectors, carbon monoxide alarms, upgrading defective wiring, footings being installed under any structure that does not have any additional supports installed under decking and/or beams, teco joist hangers, double up roof joist around skylights, handicapped accessibility on commercial projects, including ramps, doorways, and bathrooms.

Common occurrences, in some instances are as follows: Installation of fire rated sheet rock over and around the heating system, hand rails on any structure above a certain height, including, but not limited to, stairs, means of egress windows in rooms or areas, fans in bathrooms with no windows, replacement of PVC underground piping to cast iron in existing bathrooms, removal of additional sinks or illegal apartments not to code, installation of smoke detectors, carbon monoxide alarms, upgrading defective wiring, footings being installed under any structure that does not have any additional supports installed under decking and/or beams, teco joist hangers, double up roof joist around skylights, handicapped accessibility on commercial projects, including ramps, doorways, and bathrooms.

In addition to Fire Alarm, sprinkler systems as may be required for different USES. Also fire rated minimum separation for structures too close to the property line and/or ceiling height issues relating to areas not complying with code. There is also a possibility that an interior living space that does not have proper windows and ventilation may cause additional issues relating to the legalization of the area in question.

Note that in most cases, electrical inspections are required. Electrical inspections are provided by a licensed electrical inspection agency approved in your Town.

For disclosure purposes you are being notified that I am the owner of Electrical Inspectors, Inc. Although I own this other company that can provide services for this project, I have NO CONTROL over the existing conditions and/or the results of the inspection. I do have input on the time it would take to secure such inspection. If an inspection is provided by Electrical Inspectors, Inc. and the conditions DO NOT meet code,



you will be required to retain a licensed electrical contractor of your choice for the corrective work, in addition to paying an additional fee for a re-inspection. Electrical inspections and compliance is an important issue for life-safety.

If you do not meet code, an electrical certificate will not be issued. You also have the right to secure your own electrical inspection from another licensed inspection agency. This firm is not responsible for the outcome of any inspections regarding electrical conditions and/or possible upgrades that may be required are at the owner or agent's expense.

As stated above, the same is true for any plumbing inspections and permits that may be required. There are instances when plumbing permits are required. If so, you have the right to retain your own plumber and/or allow us to assist you with this part of the project. Any and all upgrades to comply with code are strictly at the owner or agent's expense.

If construction changes are required from time to time, the owner can retain the contractors and/or we can assist you with this phase. Any and all corrections are at the owner and or agent's expense.

If your property is within the vicinity of a body of water you may be required to comply with the windborne debris section of the newly adopted state code. Which means reconstruction and or modifications to framing connections, impact resistant glazing and or storm shutters. Along with additional items as applicable.

If you have a pool spa and or hot tub, you MUST comply with Appendix "G" of the new building Code. This along with other codes is the responsibility of the owner. RMB and or its employees are not responsible for any of these requirements. If you can not comply with this section, then removal of said item will be required and at the owners expense.

Please note that any sub-division or any application that requires County Planning Commission or Planning Department in your county approval and said application receives disapproval or denial, you may not have any recourse to change that decision, which could prevent a permit from being issued from the local municipality.

This is important to understand for any conditions that require Nassau County Planning Commission Authorization.

Any recommendation made within this report may not be a final list of items required in obtaining Certificates. The Plan Examiner and/or Building Inspector, who are employees of the municipality, have the ultimate authority on all existing conditions that may need to be upgraded.

Also please note asbestos examination and/or abatement are not part of this research report nor are it the responsibility of this firm to provide the client with any information regarding the same.

This information does not mean your specific project will require these items. It is only a means of information in case the issue arises and corrections are required, so proper notification has been issued. If any of the above issues does occur, it would be the owner's responsibility to make the necessary changes and/or upgrades to meet code.

We have found that communication is the most important part of providing service in a timely manner. We do not assume anything with regard to obtaining approvals for conditions that are existing and/or built without the benefit of a valid permit.

Therefore, these procedures should insure that we have advised you properly and that there is a clear understanding of the requirements and responsibilities of all parties entering into this agreement to provide services.

If closing occurs prior to any permits and/or certificates being approved and issued by the governing municipality, it is the responsibility of the owner of the property to allow access to the property for inspections. In addition, no changes are to be made to any of the existing conditions unless those areas of change are listed and approved on the permits issued, or the owner is issued new, subsequent permits.

Changes to the property without the benefit of a valid permit could, in fact, cause delays and raise questions by the inspectors and/or building department before final certificates will be issued. Therefore, no changes should be made without the express written approval from the town and/or this firm. If changes are made without approval, this may cause new applications to be processed at an additional cost.

This report does not include any search of other municipal records. It is exclusively for permits, certificates and zoning only. Any violation that may be on file has not been revealed by our search. In addition, no search of the county records is performed which might reveal any possible restrictive covenants that may be on file for the property in question. No search of the County Sewer Department and/or utility companies servicing this property was conducted. Your Title Search Company Policy being purchased or currently active should conduct violations, restrictive covenants and other municipal searches.

Any easements that may be on file at any municipal agency having jurisdiction for this property are not part of this research. Therefore, the research being provided does not take into account any requirements or conditions of any easements or restrictions which may have been filed or recorded for this property.

This firm did not research any deeds and or restrictive covenants that may be filed with any municipal agencies. Therefore, we will not be responsible for any restrictions that may be placed on any property without formal written disclosure from the owner or attorney of said property.

Therefore, research being provided may or may not uncover restrictions that were placed on the subject location. It is the responsibility of the owner and or attorney to fully detail any restrictions via letter to this firm prior to any research is completed.

Municipal employees conduct all researches. Therefore, the accuracy of the actual search is only as thorough as the person providing the information. This means that this firm and its employees are not responsible for the amount of permits listed in this report, since the information was issued and released by the municipal agency of record. Your Title Report could have different or conflicting information. If this occurs, it is the responsibility of the owner or agent for the owner to notify this office in writing of any differences in order for a clarification of the research to be provided.

Tax searches, research or any part of a tax situation relating to this property or any properties, are not part of our services. The County Assessor's office having local jurisdiction in this matter handles taxes; and they can

be contacted if additional information is necessary. Therefore, any possible increase or information relating to taxes is NOT the responsibility of this firm.

Note the CODES OF NEW YORK STATE takes effect on January 1, 2003. The new code will be the only code to apply under. Therefore, under certain conditions, maintains may have to be adjusted to meet the code, which the sole responsibility is the owner of the property. Upgrades as noted in other sections of this report are not the responsibility of RMB and or its affiliates.

**R317.1.1 ALTERATIONS, REPAIRS, ADDITIONS AND CONVERSIONS.** When interior alterations, repairs, additions or conversions requiring a permit occur, or when one or more sleeping rooms are added or created in existing dwelling, the individual dwelling unit shall be provided with smoke alarms located as required for new dwelling; the smoke alarms shall be interconnected and hard wired.

**Exceptions:**

1. Except for bed and breakfast dwellings, smoke alarms in existing area shall not be required to be interconnected and hardwired where the alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for hard wiring and interconnection without the removal of interior finishes.
2. Repairs to the exterior surfaces of dwellings are exempt from the requirements of this section.

**Municipal Process**

Applications and Permits

(Subject to Change)

- Application and building permit for the proposed building or renovation.
- Application and building permit for site plan review 305 Site Plan Process from the Town Board.
- Application and plumbing permit for plumbing within the building.
- Application and electrical permit for the electrical work for the building (performed by a third party licensed electrical inspection agency). Note that this is important for this discipline to be pulled away from the electrical contractor of record and paid directly to the third party agency in order to maintain control of the inspection process. Although the application will be signed by the electrical contractor for processing and licensing requirements. This will be further detailed.
  
- Plumbing application for Sprinklers at the Town of Hempstead Building Department
- Plumbing permit for the main water connections for each water service.
- Application for Sprinklers at the Nassau County Fire Marshal's Office for the final build out of the building
- Application and permit for Fire Alarm for the building at the Nassau County Fire Marshal's Office
- Sewer Connection permit from the Nassau County Sewer Department.
- Grease Trap application and permit from Nassau County DPW for the Food Kitchen area
- Grease Trap Plumbing Permit from TOH Division
- Board of Health applications and permits for all food services for Food Service Area
- Site plan review application filed with the Nassau County Fire Marshal's Office which the Fire Marshal's office will then provide you with a response letter indicating requirements for all approvals to be issued by the NCFM.

- Application for Emergency lighting filed with the Nassau County Fire Marshal's Office.
- Town of Hempstead Water Department Water Availability Letter and approval for the water service. A set of floor plans will be required to be submitted reflecting the estimated fixtures and fire service lines to the Water Department. A letter will then be issued in response to this submission, which is provided to the Building Department as part of the Building Permit for the main Shell Building.
- Town of Hempstead Meter Set permits from the Water Department
- Town of Hempstead Construction Hydrants Use application during construction (If Applicable)
- HVAC Applications and permits for all units
- Elevator applications for each unit required. The core area should be handled under the shell permit and the build out via a separate application and permit for each area.
- Public Assembly Application and permit from the Town of Hempstead Building Department for the areas that require Public Assembly.
- Generator application and permits for all generators. If located on land they must be listed on the 305 Site Plan as part of the 305 process. If located on the roof, structure must be engineered. If natural gas only a TOH Building, Plumbing and Electrical Permit is required. If diesel powered the Nassau County Fire Marshal's Office application and permit will be required.
- Dumpster Permit is required.
- Fence Permit is required.

### Permits

All of the above will require permits and depending on the type of application and permit, will determine who is responsible for securing those permits with the town and municipality.

To secure permits, each licensed professional will need to have proper Workers Compensation naming the Town of Hempstead as "Certificate Holder" in either the C105.21 or U26.3 formats. The Workmen's Compensation format that is submitted to the Town in order to obtain your permits will be required to be an original.

Insurances to be issued as follows:

Town of Hempstead  
 Town Hall Plaza  
 One Washington Street  
 Hempstead, NY 11550

Any Building over 10,000 Sq. Ft will require what is known as the Town of Hempstead Affidavit for securing permits and similar affidavits for issuance of the Certificate of Occupancy with minor wording changes. THIS IS VERY IMPORTANT AND PROVIDED BY THE LICENSED ARCHITECT OF RECORD. Part of the process for the Architect of Record for development over 10,000 Sq. Ft is to process the attached affidavit. The wording cannot be changed and must be transferred to the Architects Letterhead, signed and sealed in original form. This letter will be required for permits to be issued and at the end of the project the wording changes from "WILL SUPERVISE" to "HAVE SUPERVISED". Most AIA agreements do not provide or allow for this document to be signed. It is important for this to be resolved now between the architect and owner so issuance of permits is not held up.

Final Surveys must be submitted and approved by the Town of Hempstead and Nassau County before a Certificate of Occupancy will be issued by the Building Department. Usually the town does not hold up C/O's if NYS has some responsibility. During construction, foundation location surveys will be required to be submitted to the Town and approved. A final survey will most likely be required for submission to the Town to meet the approved site permits. The Town will distribute these surveys to all departments that are listed above for their final approval. Note any changes to the approved site plans during construction will cause a time delay in securing your certificates for occupancy. If there are any changes made, it must be approved prior to construction.

For any certificates to be issued by the Town, all life safety must be in place and approved.

Electrical inspections are handled by third party licensed approved electrical inspection agencies.

Certifications will be required by structural engineers, architects, civil engineers, HVAC, elevator, concrete, contractor and any others that the Town requests during this process. Soil testing documents, flame spread certifications, insulation, steel, fire proofing, certs are required. Special Inspections must be listed on your main page of the CD set of drawings for each application at the Building Department. If the special inspectors are not retained at the time of filing a note must be placed on the drawings indicating that those special inspectors will be listed under a separate letterhead when they are retained prior to construction.

Demo applications must be filed for each building with specific documents as part of the filing package. Demo Contractors must have specific workers compensations and asbestos handlers licensing. Attached is a list of the documentation that will be required in order to file with the Building Department. Disconnect letters will be the responsibility of your licensed professionals to obtain and provide to our office for filing with the Building Department. Our office will handle obtaining the rodent letter as the last phase prior to filing with the Building Department for the demo. The rodent letter will expire within 10 days of issuance from the Nassau County Department of Health and is the reason why this is the last item to be obtained prior to filing with the building department. (The above demo requirements may not apply to this project and depending on the review provided by the Plan Examiner will determine if an additional application will be required)

Although the Town of Hempstead Building Department does not hold permits due to NYS Department of Labor Requirements or OSHA it is the responsibility of the owner and contractor to be aware of all requirements for other agencies.

Public Assembly applications and permits are required as needed depending on USE and Occupancy for the tenants. Public Assembly requires separate filings of floor plans with means of egress; areas indicating exits, emergency lighting, flame spread documents and fees to the PA Division of the Building Department.

The Nassau County Fire Marshal's Office does not permit partial systems and a Fire Watch is not an option. Please be advised that stocking the shelves and employes are not permitted in the buildings until such time sprinkler approval is issued. It is possible they can deny access until the fire alarm is in place also.

Rough, Pre-final and final inspections are required by the Town of Hempstead Building Department Building Inspector. Records of all inspections that take place on site should be kept by the construction manager. Copies of the permits must be posted at the construction trailer. The original permits should be copied and secured off

site. Photocopy the front page of the permit on the window of the trailer. The on site ORANGE sign should be affixed to the exterior of the trailer during construction and safe guarded.

Due to fiscal issues with the county it is important that fire alarm and sprinkler applications are filed as soon as possible, using the accelerated method. Also 'Rough Out' permits may be issued to the licensed professionals when applications are filed for the sprinkler and fire alarm.

Once the 305 is approved any modifications to the footprint of the buildings and site that are made during construction will require an amendment to the Town Board.

Amendments and Supplements to the Town of Hempstead Building Department are based on 12% of the original total construction cost written on the bottom of their building permit and not to exceed \$1200 +/- . Usually a set of As Build drawings are submitted at the end of the project giving the Town Plan Examiner ample time to review the changes. Most minor changes are driven by the professional of record if they do not impact of life safety, structure and means of egress and are usually handled in the As Build plans. Any substantial changes must be submitted prior to the physical change being made and approved by the Plan Examiner having jurisdiction. Also note that any submission MUST be provided with 'revision dates' listed on the pages affected within the approved permit set and needs to be accompanied by a very detailed letterhead explanation from the professional of record with signature and seal of that professional. No submissions are to be mailed to the Town and must be hand delivered with corresponding transmittal by the handler.

Other agencies not having jurisdiction but can comment are civic associations and the East Meadow Fire Department.

Time Frame is variable and depending on phase of the project. The critical path for timing usually has to do with the Fire Marshal's Office due to lack of staff to handle the volume.

Certificates of Occupancy are issued when all approvals are granted and the building inspector is satisfied that all requirements are met. There is a possibility that a TCO "Temporary Certificate of Occupancy" can be issued and is only good for 90 days. For a TCO to be issued all life safety must be in place and usually is issued when site development is still under construction due to weather conditions. Note that formal parking will need to be in place and temporary striping on site will also need to be in place for the issuance of a TCO.

All plans prepared must meet the latest approved version of the "Building Code of New York State". There are fees associated with applications and permits, those fees will be determined during the process and made out directly to those agencies. All application and permits fees will be determined at the Town of filing. Any application filed at the Town of Hempstead Building Department can be submitted with the minimum fee of one hundred dollar (\$200.00) and be adjusted prior to the permit being issued. Town Building Applications are based on \$200.00 for the first \$1,000.00 of construction and \$15.00 for each additional \$1,000.00 of construction. Plumbing applications and permits are always filed by the licensed plumber. All DPW applications are filed by the Licensed Plumber. Grease Trap applications are filed by the licensed plumber. Electrical applications are third party and this is to be further discussed.

Each and every contractor and sub-contractor are to issue a letter at the end of the project on their official letterhead in the following format.

Town of Hempstead  
Building Department  
One Washington Street  
Hempstead, NY 11550

Date (\_\_\_\_\_)

Re: (Project Name)  
(Project Address)

Permit #

Dear Building Inspector:

(Specified item) installation and construction for Building Permit Number \_\_\_\_\_ is completed as per Approved Plans and in Accordance with Applicable Building Codes.

(signed)

(seal and signature of licensed professional where it applies)

All certifications are to be original and no faxes or PDF's will be accepted by the Building Department. The IOK Architects Certification is the last certification to be issued and dated after all other certifications are received and prior to submission to the Town. All certifications are to be maintained by the general contractor or record and not submitted to the Town at all until the end of the project regardless of what the sub-contractors advise you. Copies of most of the certifications can be submitted to the plumbing inspector however the plumbing inspector will require the original Nassau County Fire Marshals approvals. A booklet is prepared by our staff including a detailed index of all the original certifications that are issued to the Building Department Building Inspector. This is a very important booklet of certifications which are the final documents for issuance of your TCO or CO depending on project completion.

All applications filed must be in original form. The owner has to sign all applications and should be provided with copies of the plans of records as part of the process.

The local Fire Department will need to be part of the process for their inspections however they do not have any jurisdiction for occupancy. We work with them during the construction process and allow them access for their firefighters to examine the proposed building for firefighting tactics. Usually they provide a number of inspections by one District Inspector and will work with you on the sprinkler and stand pipe location. Also they will require Knox Box Application filed and placement of the Knox Box for first responders. Note that prior to making any changes to any portion of an approved permit by any other agency that is being requested by the East Meadow Fire Inspector is to be approved by the Agency Having Authority first (AHJ).

As we move forward we will be updating this document. I do recommend that we meet to discuss each phase of this process and their requirements. There is more detailed information that will help during the process. We are available to meet and discuss this preliminary report. This list and requirements is subject to change and the

Authority Having Jurisdiction will comment on any other documents, issues and requirements that may be needed during this process.

Nassau County Fire Marshal's Application and Fees are paid with each application at the time of submission. The submissions of applications are only accepted on Tuesday, Wednesday and Thursday of each week. Each application should be submitted with an accelerated form and request which is an additional fee for review. Accelerated reviews take place within 10 business days not including holidays or weekends. It is VERY important to understand this process. The fire alarm and sprinkler contractors although separate companies need to submit from the same plans. The plan reviewer will see the difference and <sup>3</sup>reject<sup>2</sup> any and all differences even if minor in nature. No work is to commence on the fire, sprinkler, Hood/Duct and AES system unless an approved permit is issued by the NCFM Office. Any changes to the approved plans must be re-filed and approved prior to that work being installed. At the completion of the installation the system cannot be operational unless approved via fire marshal inspection and a formal document of approval issued by the NCFMO. Final inspections are usually handled on an overtime bases and the licensed contractors of record must submit a letter to the NCMO indicating that they are 100% completed with the project. If your installation has a standpipe system there will be separate inspections with a fire pumper truck on site which the installer must provide as part of the inspection process. Common failures with fire and sprinkler submissions are the lack of attention to the filed documents. If it also very important to retain the services of installers that can work with others and understand the process. If the installers are using an outside engineering company that signs and seals their drawings additional delays can occur when corrections are needed. Also be advised that it is common that installers have a tendency of potentially creating delays blaming the FM Office which will be unfounded and cause additional problems to securing your final approvals. The fire and sprinkler approvals are the critical path for this project. If the fire and sprinkler alarms are being designed by your engineers they must be familiar with the NFPA, NYS Building Codes and Nassau County Fire Prevention Ordinances

Note that the Authority Having Jurisdiction (AHJ) for the project is the Town of Hempstead Building Department, whereas they will not allow occupancy unless all life safety is in place and approved by the Nassau County Fire Marshal's Office.

Regardless of what has been stated above it is the responsibility of licensed professionals, contractors and sub-contractors to know what permits are required in compliance of Town, County and State standards. Although we have advised you of the process that will be required, RMB and its staff is not responsible for any approvals and timing. This is based on municipal agencies changing their requirements without formal notification.

Part of the services we provide for projects of this nature is to be involved on a weekly basis with the owner and contractors to guide you through this process and answer any questions that come up during questions. We interact with the agencies having authority on a weekly basis so that the project runs smoothly and on time as best as possible. During the entire project we respectfully request that any communications with any agency be directed through RMB to prevent any miscommunications. One of the common problems during a large project is to have many different people or friends of someone call in what is known as a Favor. We have found that this usually causes a major problem and unnecessary interference which could impact this project. This needs to be further discussed with every contractor and sub-contractor. No changes should be implemented without the proper amended approved plans and sign off from the Town or county. The licensed professionals of record need to drive the design and engineering of the project.



Please review this information and contact me with any questions. I will need to further detail this information as you move forward through the process. Thank you.

Sincerely

*Richard M. Bivone*

Richard M. Bivone,  
President

## RMB DEVELOPMENT CONSULTANTS, INC.

*Assisting Developers and  
Professionals since 1992*

The staff of RMB Development Consultants Inc., is committed to servicing our customers in a Professional and efficient manner. We do our best to give you the high quality service you deserve. A friendly atmosphere, combined with knowledge and many years of experience allows us to swiftly accommodate the ever growing needs of our clients.

### FIRE SAFETY CONSULTANTS

Fire Safety Consultation and Project Review Service

#### Departments

- Executive
- Research
- Administrative
- Human Resources
- Drafting
- Payables
- Mapping
- Receivables
- Expediting
- Clerical



## RMB DEVELOPMENT CONSULTANTS, INC.

308 East Meadow Avenue  
East Meadow, New York 11554-2438

Richard M. Blvone, CEO, President  
Mark Vincent Kruse, Architect, AIA, Vice President

Tel #: 516.794.2198 Fax #: 516.396-0151  
Administration #: 516.396.0600 Admin. Fax #: 516.396.5097  
INTERNET: <http://www.mbdci.com>  
E-mail: [rmbivone@rmbny.com](mailto:rmbivone@rmbny.com)

## SCOPE OF SERVICES

### Building Department Services

- Research Building Dept. & Municipality Files
- Prepare and File All Municipality Applications
- Town Board Application Processing and Filing
- Planning Commission and Subdivision Services
- Obtain All Permits & Municipality Approvals
- Arrange for Building Department Inspections
- Arrange for Electrical Approval Inspections
- Obtain Electrical Approval Certificates
- Obtain Certificates of Completion
- Obtain Certificates of Occupancy
- Drafting Site Plans
- Obtain Tax Records
- Obtain Surveys
- Sign Applications
- Landmark Preservation Hearings
- Permit Facilitating for Demolition Projects
- Residential & Commercial Permit Facilitating
- Community Development Consultation
- Fire Marshal and Board of Health Filing

### Variance & Special Event Services

- Prepare and File all Variance Applications
- Mailings and Sign Postings
- Site Plans
- Prepare Radius Maps
- Prepare Area Maps
- Prepare List of Names
- Obtain Chain of Title
- Deed Research
- Obtain Age Letter
- Special Events

# RMB DEVELOPMENT CONSULTANTS, INC.

308 East Meadow Avenue East Meadow, New York 11554 Tel# 516. 794.2198 FAX# 516. 794.5854 Administration 516.396.0600 Admin. FAX 516.396.5097 INTERNET: http://www.rmbdrafting.com E-mail: Info@rmbdrafting.com	<b>Contract Agreement</b>		Job #: 2015-5555
	Date: 1/29/2015	Job Name: abc Trucking Company, Inc.	
	Location: 789 Wantagh Avenue Wantagh, NY 11793		
	Proposed Work:	Proposed special use permit for a public garage with outdoor storage of vehicles with plans prepared by others. Process, file and track an application with Bldg Dept to obtain denial file, to handle the variance presentation & if 2 when approved by the BZA our office will obtain bldg permit from the Bldg Dept. Please note: A real estate expert will be required for the BZA hearing & services are not part of this contract.	
TO:	Packard Automotive, LLC 123 Main Street Farmingdale, NY 11735		
**REGARDLESS OF OPINION STATED ALL APPROVALS ARE AT MUNICIPAL DISCRETION THEREFORE RMB IS NOT RESPONSIBLE FOR OUTCOME OF REVIEW UNDER ANY CIRCUMSTANCES			

SECTION I BUILDING DEPARTMENT SERVICES			
Research	If Required	Separate Fee	Payment Schedule
Expedite Services Building Dept.	\$5,000.00		Retainer (NON-REFUNDABLE) \$3,500.00
			Due At Plan Completion and prior to Filing. (NON-REFUNDABLE) \$2,000.00
<b>TOTAL</b>	<b>\$5,000.00</b>		<b>TOTAL \$5,000.00</b>

SECTION II TOWN BOARD/BOARD OF ZONING APPEALS SERVICES			
Radius/Area Maps & List of Names			Payment Schedule
Mailings (Postage Additional)	\$500.00		Retainer (NON-REFUNDABLE) \$3,000.00
Processing and Filing with BZA	\$2,000.00		Due at Time of Processing & prior to filing. (NON-REFUNDABLE) \$2,300.00
Meeting to secure hearing date	\$300.00		
Site Plans	\$900.00		
Variance Presentation	\$650.00		
<b>TOTAL</b>	<b>\$5,300.00</b>		<b>TOTAL \$5,300.00</b>

SECTION III ADDITIONAL COSTS (IF AND AS REQUIRED)			
Application Fee	TBD		Plumbing Permit by plumber
Permit Fee	\$30.00+	per application filed	Architectural Review Board
Application Fee			Town Board Filing Assist Attorney \$2,850.00
Permit Fee			Variance Application Fee TBD
Application Fee			Real Estate Attorney for hearing \$2500.00+/-
Permit Fee			State Code Variance (On Site Only)
Clear Open Permit Fee			State Code Application Fee
Electrical Approval Certificate	\$750.00		State Code Variance
Obtain Survey	If Required	By Surveyor	Misc. (Additional Work) = /HR \$75-\$250

ADDITIONAL COSTS ARE APPROXIMATE AND ARE NOT INCLUDED IN SECTION I OR II  
 RMB DEVELOPMENT CONSULTANTS INC IS NOT RESPONSIBLE FOR THE ACCURACY OR OMISSION OF ADDITIONAL COSTS FEES ARE SET BY OUTSIDE AGENCIES AND ARE NOT IN THE CONTROL OF RMB DRAFTING SERVICES INC

THE UNDERSIGNED CLIENT IS RESPONSIBLE FOR PAYING ALL APPLICATION PERMIT, AND ANY OTHER FEES NECESSARY TO SATISFY ALL OF THE INVOLVED AGENCIES. ALL MONIES PAID ON ACCOUNT ARE NON-REFUNDABLE  
 I UNDERSTAND THAT RMB DEVELOPMENT CONSULTANTS, INC IS NOT AN ARCHITECTURAL NOR ENGINEERING FIRM I AM AWARE THAT SPECIFIC WORK WHEN REQUIRED, IS CONDUCTED UNDER THE DIRECT SUPERVISION OF A LICENSED ARCHITECT, Mark Vincent Kruse, Architect, AIA

INITIAL X DATE X

(Including here states that you have read and understand all of the terms stated above)

## TERMS AND CONDITIONS

This order expressly limits acceptance to the terms and conditions on all pages hereof, and any additional or different terms are rejected unless expressly agreed to in writing by the client and an authorized agent of RMB.

All amounts paid pursuant to this agreement are non-refundable.

Failure to pay amounts due and owing pursuant to the schedule set forth herein may subject the client to a suspension of all services to be performed by RMB. RMB shall have no liability for any delays due to the suspension of services for failure to pay.

RMB shall not be responsible for failure to perform any of the terms and conditions outlined herein in the event of delays due to local municipality actions.

RMB makes no guarantee regarding the speed in which its services are performed. It is expressly understood that RMB has no influence over the performance of the local municipality.

A service charge of 1.5% per month (18% annual rate) will be applied to all accounts, which are not paid within thirty days of demand.

RMB warrants and represents that the services to be furnished hereunder shall be performed in a workmanlike manner. This agreement together with any other written documents incorporated by reference, constitutes the entire agreement between the parties with respect to this transaction and supercedes all previous communication. The parties may at anytime insist upon strict compliance with these terms and conditions, notwithstanding any previous custom, practice or course of dealing to the contrary.

This agreement shall be governed by and construed and enforced in accordance with the laws of the State of New York. All disputes arising out of this agreement shall be resolved in the Courts of the State of New York, County of Nassau. In the event any provision of this agreement or portion hereof, is held to be illegal, invalid or unenforceable, such provision or the portion thereof, shall be deemed to be separate from all other provisions and all such other provisions shall remain in full force and effect.

All existing conditions within the closed walls are unknown and we are unable to determine the structure unless all sheetrock is removed. The owner has the option of removing the sheetrock from the walls at their own expense to allow RMB to examine the existing structure for framing members, electrical and plumbing. If you elect not to remove the sheetrock of the entire dwelling the owner assumes all responsibility to what is to be required to comply with building, electrical and plumbing codes. Our plans will call out what is to be there and it is the owner's responsibility to comply with those requirements and upgrades as needed. Therefore ANY upgrades are the responsibility of the owner. Any agreement or contract between RMB and the owner is not transferrable in any fashion. RMB and its employees are not to be liable for any existing conditions and the owner assumes all cost and responsibility if they close before any certificates are issued and this project is completed. The owner holds RMB and its employees harmless for any damages resulting from any claims and will pay all legal fees

## SCOPE OF SERVICE

The areas listed below may or may not apply to your project. Refer to the "Proposed Work" of this contract agreement and report. RMB shall not be responsible for errors and/or omissions, which result from inaccurate information received from the local municipality.

**RESEARCH:** RMB will research information from the local municipality that pertains to the scope of the project. RMB is not responsible for any errors of information received neither from the municipality nor for any delays due to agency processing. RMB will report its findings to the client, either verbally or in writing.

**MEASURING:** RMB will review and measure the existing conditions on the subject property. RMB is not responsible for the existing conditions at the subject property. RMB is not responsible for conditions, which cannot be determined due to obstructions at the subject property. RMB is not responsible for the correction of any conditions on the subject property. The client must remove all obstacles, which exist on the subject property, if said obstacles impede the ability to properly measure.

**DRAFTING:** RMB will provide to the client a set of plans which are to be used by the client in order to obtain building permits for the scope of the project. RMB shall provide the client with an analysis regarding local code violations concerning the project, if any exist. RMB is not responsible for these violations. In the event the local municipality approves a project without requiring the correction of a particular violation RMB shall have no responsibility for occurrences resulting from the approval. Any alterations required to be made to the property are the sole responsibility of the client. In the event the local municipality requires additional plans,

RMB shall provide these plans at an additional cost to the client, as per separate agreement between RMB and the client.

**BUILDING PERMITS:** RMB will obtain building permits for the required project. Upon approval by the local municipality, RMB shall submit the permits to the client. Permits must remain at the subject premises until the local municipality has made final inspections. RMB is not responsible for the results of the final inspection. RMB shall arrange for final inspections at the client's request for maintain projects. RMB shall not be responsible for the correction or change of any conditions to the subject property, if so required by the local municipality. It is expressly understood that RMB has no relationship with any official of any local municipality and RMB expressly denies any influence over any municipal official.

(TERMS AND CONDITIONS CONT.)

**ELECTRICAL SURVEY:** RMB shall arrange for an electrical inspection of the subject property, if required by the local municipality. RMB is not responsible for the results of the inspection. A Licensed Electrician is required to correct any violations at owner's expense. RMB shall not be responsible for the workmanship of the electrician nor shall RMB be responsible for the cost of curing any violations of municipal regulations.

**PLUMBING SURVEY:** A Licensed Plumber is required to obtain plumbing permits, if required by the local municipality, at owner's expense. RMB shall not be responsible for the existing conditions of the plumbing at the subject property. RMB shall not be responsible for the cost of curing any violations of municipal regulations.

**VARIANCE:** A variance is required when the subject property does not meet the local Zoning Codes. RMB shall not be responsible for existing conditions at the subject premises. RMB shall not guarantee approval by the local municipality of a Variance. RMB has no influence over any member of the Board of Zoning Appeals.

**APPEAL/ARTICLE 78:** Be advised that the applicant/owner/agent/attorney or authorized representative for this project has the right to file an "Appeal" of the decision of the Building Department and also after any decision rendered from the Board of Zoning Appeals. You also have the right to file what is known as an Article 78 if you are not in agreement with the decision of the Board of Zoning Appeals. Please note that an attorney will be required to be retained by the applicant/owner/agent/ or authorized representative in order to proceed forward with either of these processes noted above.

**STATE CODE & VARIANCES:** A variance is required when the subject property and its existing conditions do not meet state code requirements. RMB shall not be responsible for existing conditions at the subject premises. RMB will provide an additional contract agreement pertaining to services required for state code variances. RMB will not guarantee approval by state agencies for state code variances. RMB has no influence over any member of any board which administrates state code and variances. The client will be responsible for any modifications required at the subject premises, in order, to conform to the New York State Uniform Fire Prevention and Building Code.

Note the CODES OF NEW YORK STATE takes effect on December 28, 2010. Depending on the town, city and or villages under certain conditions, maintains may have to be adjusted to meet the code, which the sole responsibility is the owner of the property. Upgrades as noted in other sections of this report are not the responsibility of RMB and or its affiliates.

If your property is within one mile of a body of water you will be required to comply with the windborne debris section of the newly adopted state code. Which means reconstruction and or modifications to framing connections, impact resistant glazing and or storm shutters, along with additional items as applicable.

**FEMA and Flood Elevation Requirements. (IMPORTANT ISSUE)**

This firm is not responsible for the flood elevation requirements that may affect the approval process. It is possible that the existing or proposed conditions will not meet the current requirements for FEMA Floor Elevations. These requirements are subject to Federal regulations, which could require major modifications to the existing or proposed conditions. It is possible that no finished or mechanical equipment will be permitted in the area of question. It is possible that you may have to relocate or remove the violations at your cost. Regardless of what is filed RMB and its affiliates are not responsible for these requirements. One option would be to file for variances at each agency, if permitted. If you are approved, note that your insurances for this property could increase and is not listed in our services and or the responsibility of RMB. Please see [www.rmb.com](http://www.rmb.com) for additional information that may help you understand this important requirement. There is no guarantee for any approval and the ultimate responsibility is at the owner's expense

if your property size is in excess of an acre or the project meets the additional requirements the New York State Department of Environmental Conservation it may warrant a SPDES approval. The client and their civil design professionals shall endeavor to secure the same. Please refer to the following websites for pertinent information relating to this topic.

<http://www.dec.ny.gov/chemical/43133.html>    <http://www.dec.ny.gov/imsmaps/stormwater/viewer.htm>

**§RP3008  
BACKWATER VALVES**

**§RP3008.1 General.** Fixtures that have flood level rims located below the elevation of the next upstream manhole cover of the public sewer serving such fixtures shall be protected from backflow of sewage by installing an approved backwater valve. Fixtures having flood level rims above the elevation of the next upstream manhole shall not discharge through the backwater valve. Backwater valves shall be provided with access.

Exception: Except as otherwise permitted by the code enforcement official in accordance with the authority regulating the public sewer system.

**§RP3008.2 Construction.** Backwater valves shall have noncorrosive bearings, seats and self-aligning discs, and shall be constructed to ensure a positive mechanical seal. Valve access covers shall be water tight.

If you have a pool spa and or hot tub, you MUST comply with Appendix "G" of the new building Code. This along with other codes is the responsibility of the owner. RMB and or its employees are not responsible for any of these requirements. If you can not comply with this section, then removal of said item will be required and at the owners expense.

**R317.1.1 ALTERATIONS, REPAIRS, ADDITIONS AND CONVERSIONS.** When interior alterations, repairs, additions or conversions requiring a permit occur, or when one or more sleeping rooms are added or created in existing dwelling, the individual dwelling unit shall be provided with smoke alarms located as required for new dwelling; the smoke alarms shall be interconnected and hard wired.

**Exceptions:**

1. Except for bed and breakfast dwellings, smoke alarms in existing area shall not be required to be interconnected and hardwired where the alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for hard wiring and interconnection without the removal of interior finishes.
2. Repairs to the exterior surfaces of dwellings are exempt from the requirements of this section.

Upgrades required are at the owner's expense. Some projects may be difficult to obtain approvals for. Changes may be required as per our research report. Additional services and moneys may be required during project for upgrades and revised drawings which are not included within this proposal.

These plans are for existing conditions only. Upgrades, modifications and or revisions required to satisfy code or owner's/building department/BZA discretion will be billed at an hourly charge to be determined and approved prior to commencing with additional services. Certification services are not included within this proposal.

(TERMS AND CONDITIONS CONT.)

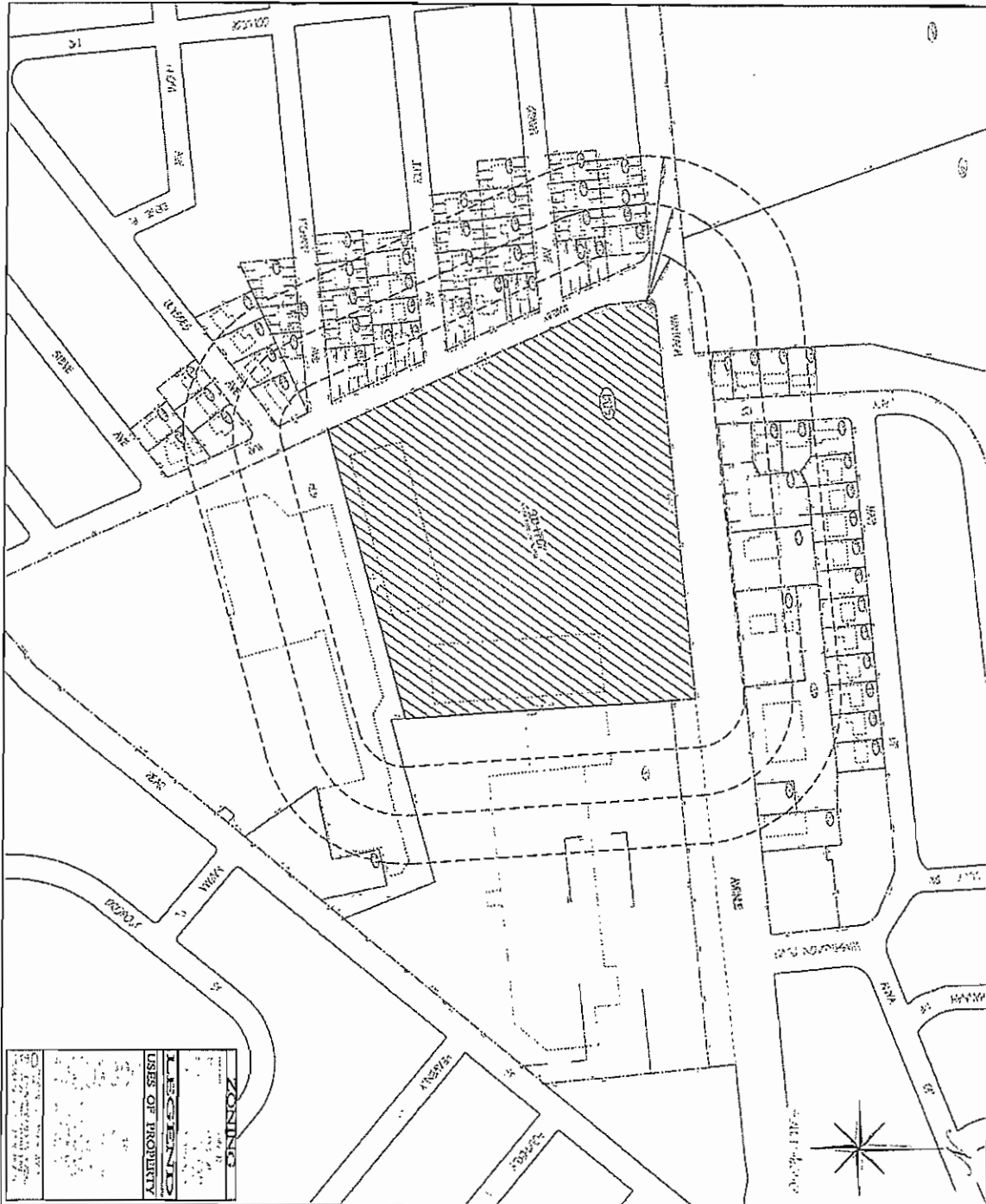
**ALL SERVICES OUTLINED HEREIN ARE NOT MUTUALLY EXCLUSIVE AND THE PROVISIONS FOR ONE MAY APPLY FOR ALL SERVICES.**

The undersigned, referred to as "the client" hereby engages RMB DEVELOPMENT CONSULTANTS, INC., referred to as "RMB" to perform the services listed herein. Execution of this agreement by both the client and RMB shall constitute acceptance of all of the terms set forth on all pages of this report and contract agreement.

ACCEPTED BY: _____	_____
RMB DEVELOPMENT CONSULTANTS, INC.	CLIENT
DATE: _____	DATE: _____

NOTES : All modifications and upgrades are at the owner's expense.

ADDITIONAL COMMENTS: All Conditions to comply with NYS and local codes. Existing non permitted items to be removed legalized to accommodate new work as well as municipality requirements. Legalization of non permitted items is not included in the proposed work. Legalization of existing alterations, additions and structures as required to be provided under separate contract & services at the owner's discretion and or project requirements for approval. Non permitted structures that may exist on site require a permit / variance and should be removed and / or legalized. Any and all conditions requiring upgrading are at owner's expense. This contract is valid for thirty days only, from the day of printing. Charges subject to increase thereafter. This contract is subject to change with scope of the project. All fees drawn on RMB accounts are subject to a multiplier of 1.2 on base or 2x fee plus service charge for disbursements. All disbursements are to be paid by the client directly including but not limited to application / permit and consultants fees. Site visits during construction are not to be construed as supervision of the work nor is this service proposed within this contract. Contractor is responsible for obtaining all required inspections. This proposal does not include inspection or written certification services of the construction for Building Department or any other purpose. Written certifications if required will be provided on an approved as needed basis subject to review & acceptance of the work performed and an additional agreement / fee for services. Services as required not contained within this contract will be provided under separate contract when applicable. Resubmissions of the plans following client approved preliminary plans and or construction plans will be billed at an hourly charge to be determined / approved as required. Modifications to project scope may require revisions to the contract depending upon the extent of the change. All underground utilities and or tanks are to be removed or located by others prior to commencing with the work. Be advised that all zoning and permit information is provided to us by representatives of the municipal agency having jurisdiction. Until such time a formal review is provided by an official representative of the municipal agency having jurisdiction this information provided is preliminary in nature. It is also possible that the municipal agency having jurisdiction could issue incorrect zoning and permit information that your project will be based upon. RMB and its affiliates and employees cannot be responsible for any such inaccurate information at any time. This contract is issued with the understanding that the services offered within are of a service based nature and that upon termination of services by either party the contract billing beyond the point of termination shall cease and be nullified for future services not yet performed. It is further understood and acknowledged by both parties that the fee for services provided up to and including the date of termination shall be due and payable in full regardless of the outcome of the balance of the project. Invoices shall be issued in a timely manner coinciding with the individual phases of the contracts herein and will subsequently be issued within a reasonable time frame of the services being performed. Invoices coinciding with services performed will be valid regardless of their issue date and are to be paid in full in order to proceed forward with the next applicable phase. Services not provided although indicated within the enclosed contracts will not be invoiced based upon modifications to the project scope. Project scope modifications requiring additional services not included herein will be invoiced via separate contract and / or other valid forms of agreements mutually agreed upon by both parties in advance of the services being performed. Commercial Occupancies: There may be a need to secure a NYS Department of Labor Boiler Inspection for the existing or new heating system. Although the local municipality may not require this for your Certificate of Occupancy, it is possible that in the future you or your client may need to secure this type of inspection. Note that our search of municipal records DOES NOT include any searches at the NYS Department of Labor. Nor are we responsible for any future or previous inspections or compliance of NYS DOL requirements.



<b>ZONING</b>	
RESIDENTIAL	...
COMMERCIAL	...
INDUSTRIAL	...
...	...

**1 of 1**

**LEGEND**  
**USES OF PROPERTY**  
 ...

**PLANS FOR**  
**PACARD**  
**AUTOMOTIVE LLC**  
**789 WINDY AVENUE**  
**WINDY, NY**  
**DATE: 12/27/2016**

**DRAWN BY**  
**AREA MAP**  
**150' X 100' E.C. & S**  
**1:500 SCALE**

**REVISIONS**  
 ...

**ISSUED BY**  
**JOE Carl Broder**  
**Autometric**  
**501 Bedford, NY 13554**  
**1001 Mt. Airy Road**  
**1001 Mt. Airy Road**

**RMB**





Town of Hempstead  
 Department of Buildings  
 1 Washington Street, Hempstead, N.Y. 11550-4923  
 (516) 538-8500

**CERTIFICATE SECTION**

Your request for building permit information for DATE: 1 / 25 / 15  
 SECTION 01 BLOCK 012 LOT(S) 01234  
 ADDRESS: 789 Wantagh Avenue UNINCORPORATED VILLAGE Wantagh  
 LOCATED: S/E/C Wantagh Avenue and Marley Way, Wantagh, NY  
 has been processed and the following permits are on file:

**OPEN BUILDING PERMITS**

BUILDING PERMIT#	YEAR	PROJECT
A: _____	_____	_____
B: _____	_____	_____
C: _____	_____	_____
D: _____	_____	_____
E: _____	_____	_____

The following is required for certification of the above open building permit(s):

- \_\_\_\_\_ A recent final building inspection is required. There is a minimum fee of \$150.00 per inspection for the first permit and \$50.00 for each additional permit, which is included in #5 below. Fill out and return the attached inspection card. Call the area Code Enforcement Officer to schedule an appointment for the required inspection at 812-3088 between 7:30 A.M. and 9:30 A.M.
- \_\_\_\_\_ Plumbing Permit # \_\_\_\_\_ requires an inspection. Contact plumbing section at 812-3126, between 7:30 A.M. & 9:30 A.M. Inspection fee(s), if any, are not included in #5 below.
- \_\_\_\_\_ A certificate is required from a certified electrical inspection agency for all electrical work, or a complete affidavit stating that no electrical work has been performed.
- \_\_\_\_\_ Submit three (3) final surveys with the seal and signature of licensed land surveyor.
- \_\_\_\_\_ A fee of \$ \_\_\_\_\_ is required. Make check payable to the "Town of Hempstead".
- \_\_\_\_\_

**CLOSED BUILDING PERMITS**

BUILDING PERMIT#	YEAR	PROJECT
A: <u>560010</u>	<u>1956</u>	<u>Office Building</u>
B: <u>7400200</u>	<u>1974</u>	<u>Addition to an Office Building</u>
C: <u>8501022</u>	<u>1985</u>	<u>Int. Alterations to an Office Building</u>
D: _____	_____	_____
E: _____	_____	_____

- \_\_\_\_\_ A fee of \$ \_\_\_\_\_ is required for certified copies. Make check payable to the "Town of Hempstead".
- \_\_\_\_\_ The Department of Buildings has no record of the original building. Our records began in 1930. If the building was constructed prior to 1930, you may be able to obtain a letter to this effect if the following is provided: A fee of \$20.00, a letter of age and a copy of the "old" assessors cards for the property from the Nassau County Assessors Office, located at 240 Old Country Road, Mineola, NY.

**RETURN THIS FORM WITH ALL CORRESPONDENCE**

CO-01/2014 \*\*\*This research sheet is for a fictitious property and is for presentation purposes only\*\*\*

PROFESSIONAL LETTERHEAD

STATE OF NEW YORK)  
COUNTY OF NASSAU)

\_\_\_\_\_ being duly sworn, deposes and says that he is a (Registered Architect) (Professional Engineer) (use appropriate title) and is duly licensed to practice his said profession in the State of New York and maintains an office for the practice of same at:

In connection with application no. \_\_\_\_\_, for a permit to construct a building on the premises therein described, namely, Section No. \_\_\_\_\_, Block No. \_\_\_\_\_, and Lot(s) No. \_\_\_\_\_, deponent certifies to the Building Department of the Town of Hempstead the following:

(a) Upon information and belief, the name and office and post office address of the owner in fee of the property which is the subject of said application is \_\_\_\_\_

(b) Said owner of said premises has authorized:

\_\_\_\_\_ mentioned in the application, and the total floor area of same will be in excess of ten thousand (10,000) square feet.

(c) Said owner has authorized deponent to supervise the construction work mentioned in said application.

(d) Deponent intends in good faith to supervise said construction work. In the event deponent shall, for any reason, discontinue the supervision of the construction of the said building at any time prior to its completion, deponent will immediately notify the Building Department of the Town of Hempstead of such fact in writing.

That the owner in fee of the premises in question has read this affidavit, knows the contents hereof, consents to same and authorizes the execution and delivery thereof; further

If said notice mentioned in paragraph (d) above, shall not have been due and timely made as therein stated, and if there is any default in serving said notice, thereupon, the building permit issued for said construction work shall be automatically declared suspended and no further work shall be performed thereunder unless and until another affidavit shall have been filed with the Building Department again certifying that said construction work is being supervised by a duly licensed Architect or Engineer.

Deponent is mindful that no Certificate of Occupancy will be issued for such building, unless and until a final affidavit is filed with the Building Department by deponent certifying that to the best of his knowledge the building was erected in conformity with the filed plans and with the rules and regulations of the Building Department.

Deponent affixes his signature and professional seal hereto with knowledge that the Building Department of the Town of Hempstead relies on the truth of the statement herein contained and is induced thereby in issuing the permit requested by the applicant.

(SEAL)

\_\_\_\_\_  
(Registered Architect or Professional Engineer)

65 Lot 1000 A 2000 00 00

Date

Registered Architect or Professional Eng.

Re: Structural Steel Affidavit

I, Reg. Architect or Prof. Engineer, on behalf of the owners of premises known as (street address, unincorporated area and zip code) and/or (section), (block), and (lot), petitioned the Town of Hempstead Department of Buildings have issuance of a building permit in connection with a project for which plans have been filed as Building Permit number \_\_\_\_\_.

I, (R.A. or P.E.), certify that I am a (Registered Architect)(Professional Engineer) (use appropriate title) duly licensed to practice in the State of New York and that I am regularly engaged in the practice of (Engineering) (Architecture) (use appropriate terminology). I certify that the subject structural steel has been designed by me, and has been designed to comply with the requirements of the New York State Uniform Fire Prevention and Building Code, and the design criteria of the American Institute of Steel Construction. I also am certifying that said steel was ordered, delivered and installed as per the approved plans of the Town of Hempstead and all applicable Building Codes.

(SEAL) \_\_\_\_\_  
(Registered Architect or Professional Engineer)

COUNCIL MEMBERS

ANTHONY J. SANTINO  
ANGIE M. CULLIN  
DOROTHY L. GOOSBY  
GARY A. HUDES  
JAMES DARCY  
EDWARD A. AMBROSINO

MARK A. BONILLA  
TOWN CLERK

DONALD X. GLAVIN, JR.  
RECEIVER OF TAXES

WILLIAM H. ROCKENSIES, P.E.  
COMMISSIONER

KEVIN J. REGAN  
DEPUTY COMMISSIONER

TOWN OF HEMPSTEAD  
DEPARTMENT of ENGINEERING

350 FRONT STREET  
HEMPSTEAD, NY 11550-4037  
(516) 489-5000  
FAX (516) 489-0024



KATE MURRAY  
SUPERVISOR

Dear Sir/Madam:

The attached certification is self-explanatory and must be signed by a licensed Professional Engineer or Registered Architect, licensed to practice in the State of New York, and then returned to me.

When I receive the certification signed and sealed, I will approve the final surveys for a Certificate of Completion or Certificate of Occupancy, whichever is required.

Very truly yours,

William H. Rockensies, P.E.  
Commissioner

By Suzanne Reed  
Suzanne Reed

SR: rd  
Attachacment

Town of Hempstead  
Department of Engineering  
350 Front Street  
Hempstead, NY 11550

Attention: Ms. Suzanne Reed

Re:

Dear Ms. Reed:

I certify that all site work for the above mentioned property was constructed in substantial conformance with the site plan as approved by The Town Board of the Town of Hempstead.

# ***Electrical Inspectors, Inc.***

300 East Meadow Avenue, East Meadow, New York 11554  
600 Johnson Avenue, Suite D2, Bohemia, New York 11716

## **800-794-1468**

**Richard M. Bivone, President** OSHA 10 Certified  
**Philip F. Goehring, Chief Inspector**, IAEI, OSHA 10 Certified  
**William Hunt, Inspector**, IAEI, OSHA 10 Certified  
**Richard Jendzo, Inspector**, IAEI, OSHA 10 Certified  
**Peter Pearsall, Inspector**, IAEI, OSHA 10 Certified  
**Edward Scavelli, Inspector**, IAEI, OSHA 10 Certified  
**David Paterno, Inspector**, IAEI, OSHA 10 Certified  
**Robert Siebenhuener, Inspector**, IAEI, OSHA 10 Certified

**We are proud to be  
Extreme Makeover Home Edition Inspectors**



***PROUDLY SERVING MUNICIPALITIES THAT CARE***  
*We Inspect All Municipalities In Nassau and Suffolk That Use 3rd Party Inspectors.*

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**[EIINY.COM](http://EIINY.COM)**

**VIEW ALL OF YOUR JOBS ONLINE, CHECK STATUS**

**FILE NEW JOBS ONLINE NOW 24/7**

NASSAU COUNTY FIRE MARSHAL APPROVED  
Inspectors Available -7AM to 9AM- Office Staff 9AM-4 PM  
ALWAYS A LIVE VOICE AFTER HOURS.  
LIPA "AUTHORIZATION TO INSTALL" Issued



Town of Hempstead
Department of Buildings

1 Washington Street, Hempstead, NY 11550-4923
(516) 538-8500

DESIGN PROFESSIONAL'S CERTIFICATE OF COMPLIANCE

WITH TOWN OF HEMPSTEAD DEPARTMENT OF BUILDINGS RULES AND REGULATIONS, AND THE NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE, (TITLE 19).

DATE: \_\_\_\_\_

DESIGN PROFESSIONALS NAME: \_\_\_\_\_
ADDRESS: \_\_\_\_\_
LICENSED IN THE STATE OF NEW YORK, NUMBER: \_\_\_\_\_

To: Town of Hempstead Department of Buildings

Project Scope: \_\_\_\_\_ Application Number: \_\_\_\_\_

I, \_\_\_\_\_ on behalf of the owner(s) of premises
(NAME OF REGISTERED ARCHITECT/ENGINEER)

Known as \_\_\_\_\_ Section \_\_\_\_\_ Block \_\_\_\_\_
(ADDRESS WHERE WORK IS PROPOSED)

Lot(s) \_\_\_\_\_, in the hamlet of \_\_\_\_\_ submit the attached plans for your review and ultimate issuance of Building Permit for the project referenced above.

I, \_\_\_\_\_, License No. \_\_\_\_\_, certify
(NAME OF REGISTERED ARCHITECT/ENGINEER)

That I am a Registered Architect/Engineer, duly licensed to practice in the State of New York and that I am regularly engaged in the practice of architecture/engineering. I hereby certify that the work indicated on the plans submitted with this application conforms to all of the applicable requirements of the Town of Hempstead. Department of Buildings and The New York State Uniform Fire Prevention and Buildings Code, (NYCRR Title 19), effective as of 1/1/03 (also known as the International Codes as adopted and modified by New York State.)

Signed \_\_\_\_\_ Date \_\_\_\_\_

ARCHITECT'S/ENGINEER'S SEAL



**Town of Hempstead**  
**Department of Buildings**

1 Washington Street, Hempstead, N.Y. 11550-4923  
(516) 538-8500

**AFFIDAVIT OF FOUNDATION INSPECTION**

DATE: \_\_\_\_\_

BUILDING PERMIT #: \_\_\_\_\_

I, \_\_\_\_\_ am the owner of

the subject premises at \_\_\_\_\_

I certify that the depth of the foundation is as per approved plan.

Signed \_\_\_\_\_

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Notary





**Town of Hempstead  
Department of Buildings**

1 Washington Street, Hempstead, N.Y. 11550-4923  
(516) 538-8500

**INSTRUCTIONS FOR FILING FOR A DEMOLITION PERMIT**

A completed Building Permit application form. Application forms shall be filled out in their entirety and shall be signed by the property owner NOT the lessee. All information must be typed or printed. Cross outs will void out application.

Three (3) copies of a recent complete (unaltered) surveys by a licensed land surveyor, showing the plot and all existing buildings and structures.

Two copies of the subject plot plan showing all existing structures and highlighting the structure to be demolished.

Proof of Workers Compensation Insurance stating demolition at the subject site. (see section 57 of the Workers' Compensation Law).

A recent tax bill covering the subject property.

An affidavit must be submitted by a certified & licensed asbestos inspector (include copy of license), to verify the absence or presence of asbestos. In cases where asbestos is found to exist, demolition permits may not be issued until the asbestos has been removed, and lawfully disposed of, and such certification by a recognized licensed asbestos removal firm has been filed with the Department of Buildings.

A letter from the Long Island Power Authority (L.I.P.A.) indicating that all gas and electric services to the building or structure to be demolished have been disconnected or never have been installed.

A letter from a private water company, a special water district or the Town of Hempstead Water Division, as the case may be indicating that water service to the premises has been disconnected to their satisfaction or never installed.

Procedure for disconnect in the following Town of Hempstead Water Districts: Bowling Green, East Meadow, Levittown, Lido-Point Lookout, Roosevelt Field, Uniondale.

- a) Contact the Water Division of the Department of Public Works at 1995 Prospect Avenue, East Meadow, (516) 794-8300, ext. 204.
- b) Shut off must be made at corporation stop at the main and flare nut and water service line must be removed.
- c) A service representative of the Water Division must be notified at least forty-eight (48) hours prior to disconnect since such representative must be present while disconnect is made and excavation is open.

DEMOLITION REQUIREMENTS CHECKLIST

- 1) APPLICATION
- 2) AFFIDAVIT OF RESPONSIBILITY
- 3) WORKMENS COMPENSATION
- 4) TAX BILL
- 5) THREE SURVEYS
- 6) ASBESTOS LETTER
- 7) LILCO LETTER
- 8) WATER COMPANY LETTER
- \* 9) WATER PLUMBING PERMIT
- \* 10) SEWER AND ROAD OPENING PERMIT
- \* 11) CESSPOOL AFFIDAVIT
- 12) VOIDS AFFIDAVIT
- 13) DEPARTMENT OF HEALTH LETTER
- 14) TREE AFFIDAVIT

\* AS AND WHERE REQUIRED

NOTE: DEMOLITIONS SHALL COMPLY WITH THE NEW YORK STATE  
CODE PART 608

APP003



**Town of Hempstead**  
**Department of Buildings**  
1 Washington Street, Hempstead, N.Y. 11550-4923  
(516) 538-8500

DATE \_\_\_\_\_

APPLICATION # \_\_\_\_\_

PREMISES \_\_\_\_\_

**VOIDS AFFIDAVIT**

I hereby certify that all underground wells, basins, cellars or other known voids will be filled with clean fill and that every buried storage tank, including all connections thereto will be removed and the void filled with clean sand, immediately upon completion of demolition.

\_\_\_\_\_  
Owner

Sworn to before me this \_\_\_\_\_

day of \_\_\_\_\_

\_\_\_\_\_  
Notary Public

.....  
**CESSPOOL AND SEPTIC TANK AFFIDAVIT**

I hereby certify that all cesspools and septic tanks have been emptied and filled with clean fill.

\_\_\_\_\_  
Owner

Sworn to before me this \_\_\_\_\_

day of \_\_\_\_\_

\_\_\_\_\_  
Notary Public

**TOWN OF HEMPSTEAD  
DEPARTMENT OF BUILDINGS  
AFFIDAVIT OF ABSENCE OF ASBESTOS**

Date \_\_\_\_\_

Department of Buildings  
Town of Hempstead  
1 Washington Street  
Hempstead, NY 11550

Re: Demolition Building Permit Application No. \_\_\_\_\_

I, \_\_\_\_\_ being a New York State Licensed and Certified  
Asbestos Inspector, on behalf of the owner of the premises known as \_\_\_\_\_  
\_\_\_\_\_ (street), \_\_\_\_\_  
(unincorporated area), New York \_\_\_\_\_ ( zip ) and/or Section \_\_\_\_\_  
Block \_\_\_\_\_, Lot(s) \_\_\_\_\_, have conducted an asbestos investigation  
on \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ and declare that the premises to be demolished are free of any  
asbestos containing material (ACM) and therefore petition the Town of Hempstead,  
Department of Buildings to issue a demolition permit.

Signature \_\_\_\_\_

Licensed  
Asbestos Inspector (COPY OF LICENSE REQUIRED)

License or  
Certificate No. \_\_\_\_\_

\\write\asbestos.aff  
BD-33 Appli. 2/96

**TREE PRESERVATION AFFIDAVIT**  
(Town Code Chapter 184)

APPLICATION NO. \_\_\_\_\_

Department of Buildings  
Town of Hempstead  
Town Hall Plaza  
Hempstead NY 11550

PREMISES: \_\_\_\_\_

STATE OF NEW YORK,                    SS:  
COUNTY OF NASSAU,

THIS IS TO CERTIFY THAT I, \_\_\_\_\_  
owner of the above premises, applying for a building permit, being duly sworn, depose and  
say that there will be no trees removed, destroyed or substantially altered to cause ultimate  
destruction of any nature whatsoever.

I make this affidavit with the full knowledge that the Department of Buildings relies upon  
the truth of the statements herein contained and in relying thereon will issue a permit called  
for in the application.

Date \_\_\_\_\_ Owner(s) Signature \_\_\_\_\_

Sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Notary Public, Nassau County, NY, NO. \_\_\_\_\_

**184-12 Penalties for offenses.**

A. Any person committing an offense against this chapter or any section or provision hereof shall be guilty of a violation punishable by a fine not exceeding two hundred fifty dollars (\$250) or imprisonment for a period not exceeding fifteen (15) days, or by both such fine and imprisonment, for each tree illegally removed or substantially altered. Each such violation shall constitute a separate offense and shall be punishable as such hereunder.

B. In addition, this chapter may be enforced by civil action, including an injunction, and any person who has violated or permitted a violation of this chapter may be directed by the town to replace any trees removed, destroyed or substantially altered in violation of this chapter with new trees having a diameter not less, than two (2) inches when measured six (6) inches above ground level and where such direction has been made. No building permit or certificate of occupancy shall be issued for structures on said real property until such replacement has been completed or a guaranteed replacement bond has been posted.

ATTACH REQUIRED PHOTOGRAPH OF SUBJECT SECTION, BLOCK, & LOT



**Town of Hempstead**  
**Department of Buildings**  
1 Washington Street, Hempstead, N.Y. 11550-4923  
(516) 538-8500

**HEATING, VENTILATION AND AIR-CONDITIONING AFFIDAVIT SAMPLE**

PROFESSIONAL LETTERHEAD

Date

Town of Hempstead  
Department of Buildings  
1 Washington Street  
Hempstead, New York 11550-4923

Re: Heating, Ventilation and  
Air-Conditioning Affidavit

I, (Registered Architect or Professional Engineer), on behalf of the owners of premises known as (street address), (unincorporated area and zip code), and/or (section), (block), (lot), petition the Town of Hempstead Department of Buildings for issuance of a building permit in connection with a project for which plans have been filed as application number \_\_\_\_\_.

I, (R.A. or P.E.), certify that I am a (Registered Architect) (Professional Engineer) (use appropriate title) duly licensed to practice in the State of New York and that I am regularly engaged in the practice of (Engineering) (Architecture) (use appropriate terminology).

I certify that the subject heating, ventilation and air-conditioning system has been designed by me, and has been designed to comply with the requirements of the New York State Uniform Fire Prevention and Building Code, the New York State Energy Conservation Construction Code and the design criteria of (ASHRAE) the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc.

Upon completion of the project I agree to provide the Department of Buildings with the required installation certification.

(SEAL) \_\_\_\_\_  
(Registered Architect or Professional Engineer)

hvac.bak



**Town of Hempstead  
Department of Building**

1 Washington Street, Hempstead, N.Y. 11550-4923  
(516) 538-8500

**NEW YORK STATE ENERGY CONSERVATION CONSTRUCTION CODE  
AFFIDAVIT SAMPLE**

PROFESSIONAL LETTERHEAD

Date

Town of Hempstead  
Department of Buildings  
1 Washington Street  
Hempstead, New York 11550-4923

Re: New York State Energy  
Conservation Construction  
Code Part 7810.11 (a)

I, (Registered Architect or Professional Engineer), on behalf of the owners of premises known as (street address), (unincorporated area and zip code), and/or (section), (block), (lot), petition the Town of Hempstead Department of Buildings for issuance of a building permit in connection with a project for which plans have been filed as application number \_\_\_\_\_.

I, (R.A. or P.E.), certify that I am a (Registered Architect) (Professional Engineer) (use appropriate title) duly licensed to practice in the State of New York and that I am regularly engaged in the practice of (Architecture) (Engineering) (use appropriate terminology).

I certify that to the best of my knowledge, belief, and professional judgment, the project plans are in compliance with the New York State Energy Conservation Construction Code.

(SEAL) \_\_\_\_\_  
(Registered Architect or Professional Engineer)

energy link

D. FINAL C.O. SURVEY

1. All final site plan surveys submitted shall contain all as-built information which shall include but not be limited to, sizes and capacities of drainage structures and their connecting pipe, flow lines indicating surface flows, location of all utility service lines and the location of all retaining walls with elevations on top and bottom of wall, building structures (with dimensions and property line offsets), on-site parking (including handicap), sidewalks, walkways, handicap ramps, on-site parking markings, dumpsters and refuse areas, landscaped areas, fences, driveways, elevation of rim of drywell(s), catch basins, finished first floor, garage entrance, building corners, elevations every 25 feet along property lines, sidewalks, top and bottom of curbs, centerline of roads and abutting properties. Said final site plan survey shall be signed and sealed By a New York State Licensed Land Surveyor.
2. Along with C.O. survey, a letter of certification from a New York State Professional Engineer, signed and sealed, stating that the site work was constructed in substantial conformance with the site plan approved by the Town Board.
3. A letter of certification from a New York State Licensed Professional Engineer, signed and sealed, stating that the site construction methods conformed with the D.E.C. Phase II Storm Water Regulations is required as part of the C.O. survey approval process.



Town of Hempstead  
Department of Engineering  
350 Front Street  
Hempstead, NY 11550

Attention: Ms. Suzanne Reed

Re:

Dear Ms. Reed:

I certify that all site work for the above mentioned property was constructed in substantial conformance with the site plan as approved by The Town Board of the Town of Hempstead.

TOWN BOARD OF THE TOWN OF HEMPSTEAD  
COUNTY OF NASSAU: STATE OF NEW YORK

-----x

In the Matter of the Application of

PACKARD AUTOMOTIVE LLC.

**VERIFIED PETITION**

For a Special Exception to Permit a Public Garage  
for the Sale and Repair of Automobiles at Premises  
located at Wantagh, Town of Hempstead, County  
of Nassau, State of New York

-----x

TO THE TOWN BOARD OF THE TOWN OF HEMPSTEAD:

1. The Petition ABC AUTO SALES, INC. respectfully alleges and shows to this Board as follows:

**THE PETITIONER**

2. The Petitioner, PACKARD AUTOMOTIVE LLC., with offices at 123 Main Street, Hempstead, New York (hereinafter the "Petitioner"), is the contract vendee of the subject premises.

**THE PREMISES**

3. The premises is situate on the east side of Wantagh Avenue, fifty (50) feet North of Sunrise Highway, Wantagh, Town of Hempstead, County of Nassau, New York, and a/k/a 789 Wantagh Avenue, Wantagh, New York (hereinafter the "Premises").

4. The Premises is a rectangular shaped parcel of property which maintains a 200 foot frontage on Wantagh Avenue and is 300 feet in depth.

5. The Premises is designated on the Nassau County Land and Tax Map as

Section 1, Block 2, Lot 3.

6. The above described premises is owned by ABC TRUCKING COMPANY, INC..

7. The Premises, as shown on a survey, a copy of which is attached hereto as "EXHIBIT A", is situate within the "B" Business District of the Town of Hempstead. Said premises constitutes a lot area of 60,000 square feet and is improved with an existing one story commercial building, previously used by the ABC TRUCKING COMPANY, INC.. as a private garage for the storage and repair of owner's trucks.

8. A metes and bounds description of the Premises is attached hereto as "EXHIBIT B".

9. A short form description of the Premises for advertising purposes is attached hereto as "EXHIBIT C".

#### SURROUNDING ZONING AND USES

10. A general statement of the character and zoning of the surrounding neighborhood is as follows:

- (a) NORTH: Directly to the north of the Premises are parcels of property zoned Y industrial District and developed and used commercially and industrially as warehouses.
- (b) EAST: Directly to the east of the premises is a strip mall shopping center and is zoned D commercial .
- (c) SOUTH: Southeast of the Premises is a parcel of property zoned D commercial and developed and used as a 7-11 store.

- (c) WEST: Directly to the west of the premises is zoned "C" residential and used as one family residences..

#### THE APPLICATION

11. The Applicant intends to use the subject Premises as an automobile sales and repair facility for automobiles. As proposed, the Premises will require a total of 43 parking spaces . Applicant provides for 46 spaces as shown on the site plan prepared by Charles Brown & Co., Architects & Engineers.

12. The repair and service activity on automobiles will be primarily for the repair and service of existing customers' vehicles, including manufacturer's warranties.

13. All repair and service work will be performed within the buildings on the Premises. No work will occur in the yard of the Premises.

14. The existing premises have been used by the current owner, ABC TRUCKING COMPANY INC., as a garage and repair shop for their own vehicles since approximately 1980.

15. The proposed use of the Premises will cause no adverse effect upon either the character of the community or the use and enjoyment of neighboring properties in the surrounding area.

16. The Premises is properly situated for a use such as the one requested, as it is in keeping with the pattern of development already existing in this area.

17. The relief requested and proposed use of the Premises is in harmony with the general purposes and intent of the Town of Hempstead Building Zone Ordinance and will promote the general public health, safety and welfare.

18. Upon information and belief, no other request for similar relief has been filed with the Board within the past three years.

19. Upon information and belief, the Premises is not located within 500 feet of New York State property or within 500 feet of the boundary of any incorporated Village.

20. Consent to this Petition by the owner of the property, ABC TRUCKING COMPANY INC. is attached hereto as "EXHIBIT D".

WHEREFORE, Petitioner respectfully requests that, after a public hearing, the Town Board of the Town of Hempstead grant a special exception for a public garage to allow the Premises to be used for the repair and outdoor storage of automobiles in accordance with the site plan submitted herewith.

Dated: Hempstead, New York  
January 2<sup>nd</sup>, 2015

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JOHN P. REALI, ESQ.  
Attorney for Petitioner  
410 Jericho Turnpike, Ste. 200  
Jericho, New York 11753  
(516) 681-0077  
(516) 681-0097 - Fax No.

VERIFICATION

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

MARY JONES, being duly sworn, deposes and says:

I am the Vice President of PACKARD AUTOMOTIVE LLC, Petitioner in the within action herein. I have read the annexed Petition, know the contents thereof and the same are true to our knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters we believe them to be true.

\_\_\_\_\_  
JOHN SMITH

SWORN to before me this

\_\_\_\_\_ day of January, 2015

\_\_\_\_\_  
Notary Public

ACKNOWLEDGMENT

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

On the \_\_\_\_\_ day of January, 2015, before me, the undersigned, personally appeared MARY JONES, 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

DECLARATION OF COVENANTS AND RESTRICTIONS

THIS DECLARATION, made this \_\_\_\_ day of January, 2015 by PACKARD AUTOMOTIVE LLC., with offices 123 Main Street, Farmingdale, N.Y.(hereinafter the "DECLARANT")

WITNESSETH:

WHEREAS, Declarant is the tenant of the property known as Section 1, Block 2, Lot 3, on the Nassau County Land and Tax Map, also known as 789 Wantagh Avenue, Wantagh, N.Y., as further described in the metes and bounds description attached hereto as Exhibit "A" (the premises); and

WHEREAS, Declarant has a contract to purchase the property above described; and

WHEREAS, an application was made to the Town Board of the Town of Hempstead to allow PACKARD AUTOMOTIVE LLC., to operate a public garage with outdoor storage of vehicles at said premises, and

WHEREAS, a hearing before the Town Board of the Town of Hempstead was held on December 11, 2014 with regard to said application; and

WHEREAS, the Town Board of the Town of Hempstead has approved the application pursuant to Resolution Number \_\_\_\_\_, adopted \_\_\_\_\_, a copy of which is attached hereto as Exhibit "B", subject to the conditions in the Resolution that are to be set forth in a Declaration of Restrictive Covenants to be executed by the DECLARANT and recorded in the Nassau County Clerk's Office; and

WHEREAS, the DECLARANT now freely and voluntarily desires to comply with the aforesaid conditions in Resolution Number \_\_\_\_\_ of the Town Board of Town of Hempstead : NOW, THEREFORE, in consideration of the foregoing, the DECLARANT

declares as follows:

1. All repair work shall be performed inside the building located on the subject premises
2. DECLARANT will submit a revised site plan showing a six (6) foot high PVC fence along the rear property line which faces residences.
3. The hours of operation of the repair shop shall be 7AM to 6PM on Monday to Friday, 7AM to 4PM on Saturday's and none on Sunday.
4. The above covenants and restrictions shall constitute covenants running with the land and shall be binding upon DECLARANT and all subsequent owners or other successors in interest.
5. The within covenants and restrictions may be amended, annulled, altered or repealed at any time upon consent of the then owner(s) of the Premises and the Town of Hempstead only after a public hearing and written notice of said proposed change to all property owners within two hundred (200) feet of the property described herein.
6. Said covenants and restrictions shall be enforceable by the DECLARANT, its successor in interest, any aggrieved property owner, or by the Town of Hempstead by any appropriate remedy
7. That if the Declarant, its successors or assigns obtains title to the premises, it will re-execute the Restrictive Covenant as Owner.
8. That Declarant will accept a Temporary Certificate of Occupancy ("TCO"), which shall be good for ninety (90) days and may be re-issued for ninety (90) day periods by the Building Commissioner on good cause shown.
9. Any action or expense by Declarant is at their own risk.

IN WITNESS WHEREOF, the DECLARANT has executed this Declaration on the



day first above written.

PACKARD AUTOMOTIVE LLC.

By \_\_\_\_\_

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

On the \_\_\_\_ day of JANUARY, 2015 before me, the undersigned, personally appeared JOHN SMITH 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/she executed the same in his/her capacity, 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

NASSAU COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

APPLICATION FOR FINANCIAL ASSISTANCE  
(Straight Lease)

APPLICATION OF:

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APPLICANT NAME

Please respond to all questions in this Application for Financial Assistance (the "Application") by, as appropriate:

- filling in blanks;
- checking the applicable term(s);
- attaching additional text (with notation in Application such as "see Schedule H, Item # 1", etc.); or
- writing "N.A.", signifying "not applicable".

All attachments responsive to questions found in this Application should be clearly labeled and attached as Schedule H to the Application. If an estimate is given, enter "EST" after the figure. One signed original and 9 copies of the Application (including all attachments) must be submitted.

The following amounts are payable to the Nassau County Industrial Development Agency (the "Agency") at the time this Application is submitted to the Agency: (i) a \$1,000 non-refundable application fee (the "Application Fee"); (ii) a \$3,500 expense deposit for the Agency's Transaction Counsel fees and expenses (the "Counsel Fee Deposit"), (iii) a \$2,500 expense deposit for the cost/benefit analysis with respect to the project contemplated by this Application (the "Cost/Benefit Deposit"), and (iv) a \$500 expense deposit for the real property tax valuation analysis, if applicable, with respect to the project contemplated by this Application (the "Valuation Deposit"). The Application Fee will not be credited against any other fees or expenses which are or become payable to the Agency in connection with this Application or the project contemplated herein (the "Project"). In the event that the subject transaction does not close for any reason, the Agency may use all or any part of the Counsel Fee Deposit, the Cost/Benefit Deposit and/or the Valuation Deposit to defray the cost of Transaction Counsel fees and expenses, the cost of obtaining a cost/benefit analysis and/or the cost of obtaining a real property tax valuation with respect to the Project. In the event that the subject transaction does close, the Counsel Fee Deposit, the Cost/Benefit Deposit and the Valuation Deposit shall be credited against the applicable expenses incurred by the Agency with respect to the Project.

**Every signature page comprising part of this Application must be signed by the Applicant or this Application will not be considered complete or accepted for consideration by the Agency.**

The Agency's acceptance of this Application for consideration does not constitute a commitment on the part of the Agency to undertake the proposed Project, to grant any Financial Assistance with respect to the proposed Project or to enter into any negotiations with respect to the proposed Project.

Information provided herein may be subject to disclosure under the New York Freedom of Information Law (New York Public Officers Law § 84 et seq.) ("FOIL"). If the Applicant believes that a portion of the material submitted with this Application is protected from disclosure under FOIL, the Applicant should mark the applicable section(s) or page(s) as "confidential" and state the applicable exception to disclosure under FOIL.

---

DATE

**PART I. APPLICANT**

A. APPLICANT FOR FINANCIAL ASSISTANCE (If more than one applicant, copy application and complete for each applicant):

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Primary Contact: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-Mail: \_\_\_\_\_

NY State Dept. of Labor Reg #: \_\_\_\_\_ Federal Employer ID #: \_\_\_\_\_

NAICS Code #: \_\_\_\_\_

B. BUSINESS TYPE (Check applicable status. Complete blanks as necessary):

Sole Proprietorship \_\_\_ General Partnership \_\_\_ Limited Partnership \_\_\_

Limited Liability Company \_\_\_ Privately Held Corporation \_\_\_

Publicly Held Corporation \_\_\_ Exchange listed on \_\_\_\_\_

Not-for-Profit Corporation \_\_\_

Income taxed as: Subchapter S \_\_\_ Subchapter C \_\_\_  
501(e)(3) Corporation \_\_\_ Partnership \_\_\_

State and Year of Incorporation/Organization: \_\_\_\_\_

Qualified to do Business in New York: Yes \_\_\_ No \_\_\_ N/A \_\_\_

C. ANY ENTITY PROPOSED TO BE A USER OF THE PROJECT:

Name: \_\_\_\_\_

Relationship to Applicant: \_\_\_\_\_

D. APPLICANT COUNSEL (subject to Agency approval):

Firm name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Primary Contact: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
E-Mail: \_\_\_\_\_

E. Principal stockholders, members or partners, if any (i.e., owners of 10% or more of equity/voting rights in Applicant):

Name	Percentage owned
_____	_____%
_____	_____%
_____	_____%

F. If any of the persons described in the response to the preceding Question, or a group of said persons, owns more than a 50% interest in the Applicant, list all other entities which are related to the Applicant by virtue of such persons having more than a 50% interest in such entities:

\_\_\_\_\_  
\_\_\_\_\_

G. Is the Applicant related to any other entity by reason of more than 50% common ownership? If YES, indicate name of related entity and relationship:

YES \_\_\_

NO \_\_\_

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H. List parent corporation, sister corporations and subsidiaries, if any:

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I. Is the Applicant (including any parent company, subsidiary or related entity or person) or any principal(s) of the Applicant or its related entities involved in any litigation or aware of any threatened litigation that would have a material adverse effect on the Applicant's financial condition or the financial condition of said principal(s)? If YES, attach details.

YES \_\_\_

NO \_\_\_

J. Has the Applicant (or any parent company, subsidiary or related entity or person) or any principal(s) of the Applicant or its related entities, or any other business or concern with which such entities, persons or principal(s) have been connected, ever been involved, as debtor, in bankruptcy, creditors rights or receivership proceedings or sought protection from creditors? If YES, attach details.

YES \_\_\_

NO \_\_\_

K. Has the Applicant (or any parent company, subsidiary or related entity or person) or any principal(s) of the Applicant or its related entities, ever been charged with or convicted of any felony or misdemeanor (other than minor traffic offenses), or have any such related persons or principal(s) held positions or ownership interests in any firm or corporation charged or convicted of a felony or misdemeanor (other than minor traffic offenses)? If YES, attach details.

YES \_\_\_

NO \_\_\_

L. Has the Applicant (or any parent company, subsidiary or related entity or person) or any principal(s) of the Applicant or its related entities, or any other business or concern with which such entities, persons or principal(s) have been connected, been cited for (or is there pending proceeding or investigation with respect to) a violation of federal, state or local laws or regulations with respect to labor practices, hazardous wastes, environmental pollution, taxation, or other operating practices? If YES, attach details.

YES \_\_\_

NO \_\_\_

M. Is the Applicant (or any parent company, subsidiary or related entity or person) or any principal(s) of the Applicant or its related entities, or any other business or concern with which such entities, persons or principal(s) have been connected, delinquent or have any of the foregoing persons or entities been delinquent on any New York State, federal or local tax obligations within the past five (5) years? If YES, attach details.

YES \_\_\_

NO \_\_\_

N. Complete the following information for principals (including, in the case of corporations, officers and members of the board of directors and, in the case of limited liability company, members and managers) of the Applicant:

<u>Name</u>	<u>Title</u>	<u>Other Business Affiliations</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Do any of the foregoing principals hold elected or appointive public positions? If YES, attach details.

YES \_\_\_

NO \_\_\_

Are any of the foregoing principals employed by any federal, state or local municipality or any agency, authority, department, board, or commission thereof or any other governmental or quasi-governmental organization?

YES \_\_\_

NO \_\_\_

O. Operation at existing location(s) (Complete separate Section O for each existing location):

- I. (a) Location: \_\_\_\_\_
- (b) Number of Employees: Full-Time: \_\_\_\_\_ Part-Time: \_\_\_\_\_
- (c) Annual Payroll, excluding benefits: \_\_\_\_\_
- (d) Type of operation (e.g. manufacturing, wholesale, distribution) and products or services: \_\_\_\_\_
- (e) Size of existing facility real property (i.e., acreage of land): \_\_\_\_\_

(f) Buildings (number and square footage of each): \_\_\_\_\_

(g) Applicant's interest in the facility.

FEE TITLE (i.e. own)	LEASE	OTHER (describe below)
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(h) If Applicant leases, state annual rent and lease expiration date: \_\_\_\_\_

2. If any of the facilities described above are located within the State of New York, is it expected that any of the described facilities will be closed or be subject to reduced activity? If YES, complete the attached Anti-Raiding Questionnaire (Schedule D).

YES ___	NO ___
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P. Has the Applicant considered moving to another state or another location within New York State? If YES, explain circumstances.

YES ___	NO ___
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Q. Does any one supplier or customer account for over 50% of Applicant's annual purchases or sales, respectively? If YES, attach name and contact information for supplier and/or customer, as applicable:

YES ___	NO ___
---------	--------

R. Does the Applicant (including any related entity or person) or any principal(s) of the Applicant or its related entities, or any other business or concern with which such entities, persons or principal(s) have been connected, have any contractual or other relationship with the Agency or the County of Nassau? If YES, attach details.

YES ___	NO ___
---------	--------

S. Attach a brief history of the Applicant and its business/operations.

By signing this Application, the Applicant authorizes the Agency to obtain credit reports and other financial background information and perform other due diligence on the



Applicant and/or any other entity or individual related thereto, as the Agency may deem necessary to provide the requested financial assistance.

**PART II. PROPOSED PROJECT**

A. Description of proposed Project (check all that apply):

- New Construction
- Addition to Existing Facility
- Renovation of Existing Facility
- Acquisition of Facility
- New machinery and equipment
- Other (specify): \_\_\_\_\_

B. Briefly describe the proposed Project, the reasons why the Project is necessary to the Applicant and why the Agency's financial assistance is necessary, and the effect the Project will have on the Applicant's business or operations:

\_\_\_\_\_  
\_\_\_\_\_

C. If the Applicant is unable to obtain financial assistance for the Project, what will be the impact on the Applicant and Nassau County? Would the Applicant proceed with the Project without Agency financial assistance? Describe.

\_\_\_\_\_  
\_\_\_\_\_

D. Location of Project (attach map showing the location):

Street Address:

\_\_\_\_\_

City/Village(s):

\_\_\_\_\_

Town(s):

\_\_\_\_\_

School District(s):

\_\_\_\_\_

Section: \_\_\_\_\_ Block: \_\_\_\_\_ Lot: \_\_\_\_\_

Census Tract Number: \_\_\_\_\_

If exact street address is not available, please provide a survey and the most precise description available.

- E. Describe the present use of the Project site: \_\_\_\_\_.
- F. (a) What are the current real estate taxes on the Project site? (If amount of current taxes is not available, provide assessed value for each):
- Land: \$ \_\_\_\_\_ Building(s): \$ \_\_\_\_\_
- (b) Are tax certiorari proceedings currently pending with respect to the Project real property? If YES, attach details including copies of pleadings, decisions, etc.
- YES \_\_\_\_ NO \_\_\_\_
- G. Describe Project ownership structure (*i.e.*, Applicant or other entity):
- \_\_\_\_\_
- \_\_\_\_\_
- H. To what purpose will the building or buildings to be acquired, constructed or renovated be used by the Applicant? (Include description of goods to be sold, products to be manufactured, assembled or processed and services to be rendered.)
- \_\_\_\_\_
- \_\_\_\_\_
- I. If any space in the Project is to be leased to or occupied by third parties, or is currently leased to or occupied by third parties who will remain as tenants, provide the names and contact information for each such tenant, indicate total square footage of the Project to be leased to each tenant, and describe proposed use by each tenant:
- \_\_\_\_\_
- \_\_\_\_\_
- J. Provide, to the extent available, the information requested, in Part I, Questions A, B, E and O, with respect to any party described in the preceding response.
- \_\_\_\_\_
- \_\_\_\_\_
- K. List principal items or categories of equipment to be acquired as part of the Project:
- \_\_\_\_\_

L. Will Project meet zoning/land use requirements at proposed location?

YES \_\_\_\_ NO \_\_\_\_

1. Describe present zoning/land use: \_\_\_\_\_
2. Describe required zoning/land use, if different: \_\_\_\_\_
3. If a change in zoning/land use is required, please provide details/status of any request for change of zoning/land use requirements:

\_\_\_\_\_  
\_\_\_\_\_

M. Does the Applicant, or any related entity or person, currently hold a lease or license on the Project site? If YES, please provide details and a copy of the lease/license.

YES \_\_\_\_ NO \_\_\_\_

N. Does the Applicant, or any related entity or person, currently hold fee title to (i.e. own) the Project site?

YES \_\_\_\_ NO \_\_\_\_

If YES, indicate:

- (a) Date of purchase: \_\_\_\_\_
- (b) Purchase price: \$ \_\_\_\_\_
- (c) Balance of existing mortgage, if any: \$ \_\_\_\_\_
- (d) Name of mortgage holder: \_\_\_\_\_
- (e) Special conditions: \_\_\_\_\_

If NO, indicate name of present owner of Project site: \_\_\_\_\_

O. Does the Applicant or any related person or entity have an option or a contract to purchase the Project site and/or any buildings on the Project site?

YES \_\_\_\_ NO \_\_\_\_

If YES, attach copy of contract or option and indicate:

- (a) Date signed: \_\_\_\_\_
- (b) Purchase price: \$ \_\_\_\_\_
- (c) Closing date: \_\_\_\_\_

Is there a relationship legally or by virtue of common control or ownership between the Applicant (and/or its principals) and the seller of the Project (and/or its principals)?  
If YES, describe:

YES \_\_\_\_ NO \_\_\_\_

- P. Will customers personally visit the Project site for either of the following economic activities? If YES with respect to either economic activity indicated below, complete the attached Retail Questionnaire (Schedule E).

Retail Sales: YES \_\_\_\_ NO \_\_\_\_ Services: YES \_\_\_\_ NO \_\_\_\_

- Q. Describe the social and economic conditions in the community where the Project site is or will be located and the impact of the proposed Project on the community (including impact on infrastructure, transportation, fire and police and other government-provided services):

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- R. Identify the following Project parties (if applicable):

Architect: \_\_\_\_\_  
Engineer: \_\_\_\_\_  
Contractors: \_\_\_\_\_  
\_\_\_\_\_

- S. Will the Project be designed and constructed to comply with Green Building Standards? (if YES, describe the LEED green building rating that will be achieved):

YES \_\_\_\_ NO \_\_\_\_

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T. Is the proposed Project site located on a Brownfield? (if YES, provide description of contamination and proposed remediation)

YES \_\_\_\_\_

NO \_\_\_\_\_

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U. Will the proposed Project produce a unique service or product or provide a service that is not otherwise available in the community in which the proposed Project site is located?

YES \_\_\_\_\_

NO \_\_\_\_\_

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**PART III. PROJECT COSTS**

A. Provide an estimate of cost of all items listed below:

<u>Item</u>	<u>Cost</u>
1. Land Acquisition	\$ _____
2. Building Acquisition	\$ _____
3. Construction or Renovation	\$ _____
4. Site Work	\$ _____
5. Infrastructure Work	\$ _____
6. Engineering Fees	\$ _____
7. Architectural Fees	\$ _____
8. Applicant's Legal Fees	\$ _____
9. Financial Fees (incl. lender legal fees)	\$ _____
10. Other Professional Fees	\$ _____
11. Furniture, Equipment & Machinery (not included in 3. above)	\$ _____
12. Other Soft Costs (describe)	\$ _____
13. Other (describe)	\$ _____
Total	\$ _____

B. Source of Funds for Project Costs:

a. Bank Financing:	\$ _____
b. Equity	\$ _____

TOTAL \$ \_\_\_\_\_

C. Have any of the above costs been paid or incurred (including contracts of sale or purchase orders) as of the date of this application? If YES, describe particulars on a separate sheet.

YES \_\_\_\_\_ NO \_\_\_\_\_

D. Has the Applicant made any arrangement for the provision of third party financing? If YES, indicate with whom (subject to Agency approval) and provide a copy of any term sheet or commitment letter issued with respect to such financing.

YES \_\_\_\_\_ NO \_\_\_\_\_

E. Construction Cost Breakdown:

Total Cost of Construction: \$ \_\_\_\_\_ (sum of 3 and 11 in Question A above)

Cost for materials: \$ \_\_\_\_\_  
 % Sourced in County: \_\_\_\_\_ %  
 % Sourced in State: \_\_\_\_\_ % (incl. County)

Cost for labor: \$ \_\_\_\_\_  
 % Sourced in County: \_\_\_\_\_ %  
 % Sourced in State: \_\_\_\_\_ % (incl. County)

Cost for "other": \$ \_\_\_\_\_  
 % Sourced in County: \_\_\_\_\_ %  
 % Sourced in County: \_\_\_\_\_ % (incl. County)

**PART IV. COST/BENEFIT ANALYSIS**

A. If the Applicant presently operates in Nassau County, provide the current annual payroll, excluding benefits. Estimate payroll, excluding benefits, in First Year, Second Year and Third Year after completion of the Project.

	Present	First Year	Second Year	Third Year
Full-time:	\$ _____	\$ _____	\$ _____	\$ _____
Part-time:	_____	_____	_____	_____
Seasonal:	_____	_____	_____	_____
Total Annual	\$ _____	\$ _____	\$ _____	\$ _____

Payroll: \_\_\_\_\_

What are the average wages of employees (excluding benefits) presently employed by the Applicant in Nassau County? \$ \_\_\_\_\_

What is the average annual value of employee benefits paid per job, if any, for the employees presently employed by the Applicant in Nassau County? \$ \_\_\_\_\_

What are the estimated average wages of the jobs (excluding benefits) to be created by the Applicant upon completion of the Project? \$ \_\_\_\_\_

What is the estimated average annual value of employee benefits per job, if any, for jobs to be created upon completion of the Project? \$ \_\_\_\_\_

Estimate the percentage of jobs to be created by the Applicant upon completion of the Project that will be filled by County residents: \_\_\_\_\_%

Please note that the Agency may utilize the foregoing employment projections and the projections set forth in Schedule C, among other things, to determine the financial assistance that will be offered by the Agency to the Applicant. The Applicant acknowledges that the transaction documents may include a covenant by the Applicant to retain the number of jobs, types of occupations and amount of payroll with respect to the Project set forth in this Application.

B. (i) Will the Applicant transfer current employees from existing location(s)? If YES, describe, please describe the number of current employees to be transferred and the location from which such employees would be transferred:

YES \_\_\_\_\_ NO \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

(ii) Describe the number of estimated full time equivalent construction jobs to be created as a result of undertaking the project, to the extent any:

\_\_\_\_\_

C. What, if any, is the anticipated increase in the dollar amount of production, sales or services rendered as a result of the Project?

\$ \_\_\_\_\_

What percentage of the foregoing amount is subject to New York sales and use tax?



\_\_\_\_\_ %

Describe any other municipal revenues that will result from the Project (excluding the above and any PILOT payments):

\_\_\_\_\_  
\_\_\_\_\_

- D. What is the estimated aggregate annual amount of goods and services to be purchased by the Applicant for each year after completion of the Project and what portion will be sourced from businesses located in the County and the State (including the County):

	<u>Amount</u>	<u>% Sourced in County</u>	<u>% Sourced in State</u>
Year 1	\$ _____	_____	_____
Year 2	\$ _____	_____	_____
Year 3	\$ _____	_____	_____

- E. Describe, if applicable, other benefits to the County anticipated as a result of the Project, including a projected annual estimate of additional sales tax revenue generated, directly and indirectly, as a result of undertaking the project:

\_\_\_\_\_  
\_\_\_\_\_

- F. Costs to the County and affected municipalities:

Estimated Value of Sales Tax Exemption: \$ \_\_\_\_\_

Estimated Value of Mortgage Tax Exemption: \$ \_\_\_\_\_

Estimated Property Tax Exemption: \$ \_\_\_\_\_

Existing Property Tax paid on the Land and/or Building: (please provide current tax bills) \$ \_\_\_\_\_

Estimated new Real Property Tax Revenue if the Project did not receive Real Property Tax exemption: \$ \_\_\_\_\_

Estimated new Real Property Tax Revenue if the Project does receive Real Property Tax exemption: \$ \_\_\_\_\_

G. Describe any other one-time municipal revenues (not including fees payable to the Agency) that the Project will create:

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**PART V. PROJECT CONSTRUCTION SCHEDULE**

A. Has construction work on the Project begun? If YES, indicate the percentage of completion:

- 1. (a) Site clearance                    YES \_\_\_        NO \_\_\_        \_\_\_% complete
- (b) Environmental                YES \_\_\_        NO \_\_\_        \_\_\_% complete  
            Remediation
- (c) Foundation                    YES \_\_\_        NO \_\_\_        \_\_\_% complete
- (d) Footings                      YES \_\_\_        NO \_\_\_        \_\_\_% complete
- (e) Steel                            YES \_\_\_        NO \_\_\_        \_\_\_% complete
- (f) Masonry                        YES \_\_\_        NO \_\_\_        \_\_\_% complete
- (g) Interior                        YES \_\_\_        NO \_\_\_        \_\_\_% complete
- (h) Other (describe below): YES \_\_\_        NO \_\_\_        \_\_\_% complete

2. If NO to all of the above categories, what is the proposed date of commencement of construction, renovation or acquisition of the Project?

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B. Provide an estimate of time schedule to complete the Project and when the first use of the Project is expected to occur (attach additional sheet if necessary):

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PART VI. ENVIRONMENTAL IMPACT

- A. What is the expected environmental impact of the Project? (Complete the attached Environmental Assessment Form (Schedule G)).

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- B. Is an environmental impact statement required by Article 8 of the N.Y. Environmental Conservation Law (i.e., the New York State Environmental Quality Review Act)?

YES \_\_\_\_

NO \_\_\_\_

- C. Please be advised that the Agency may require at the sole cost and expense of the Applicant the preparation and delivery to the Agency of an environmental report in form and scope satisfactory to the Agency, depending on the responses set forth in the Environmental Assessment Form. If an environmental report has been or is being prepared in connection with the Project, please provide a copy.

- D. The Applicant authorizes the Agency to make inquiry of the United States Environmental Protection Agency, the New York State Department of Environmental Conservation or any other appropriate federal, state or local governmental agency or authority as to whether the Project site or any property adjacent to or within the immediate vicinity of the Project site is or has been identified as a site at which hazardous substances are being or have been used, stored, treated, generated, transported, processed, handled, produced, released or disposed of. The Applicant will be required to secure the written consent of the owner of the Project site to such inquiries (if the Applicant is not the owner), upon request of the Agency.

THE UNDERSIGNED HEREBY CERTIFIES that the answers and information provided above and in any statement attached hereto are true, correct and complete.

Name of  
Applicant: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Sworn to before me this \_\_\_\_  
day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Notary Public

**RULES AND REGULATIONS OF THE NASSAU COUNTY  
INDUSTRIAL DEVELOPMENT AGENCY**

The Nassau County Industrial Development Agency (the "Agency"), in order to better secure the integrity of the projects it sponsors, declares that it is in the public interest (i) to ensure the continuity of such projects and the jobs created by such projects, (ii) to prevent the conversion of the use of the premises upon which a sponsored project is to be constructed or renovated and (iii) to limit and prevent unreasonable profiteering or exploitation of a project, and does hereby find, declare and determine as follows:

**FIRST:**

Upon the approval of a sponsored project, the Agency shall take title to, or acquire a leasehold or other interest in, all premises upon which an Agency sponsored project is to be constructed or renovated, and shall lease, sublease, license, sell or otherwise transfer the premises to the Applicant for a term to be determined by the Agency.

At such time as, among other things, the Applicant fails to retain or create the jobs as represented in the Application or changes the use of the project or ownership of the project or the Applicant during the life of the project in a manner inconsistent with the Application, and such employment default or change of use or ownership does not meet with the prior written approval of the Agency, a recapture of benefits may be required to be paid by the Applicant to the Agency. The amount and sufficiency (with respect to a particular applicant) of the applicable recapture of benefits payment shall be determined by the Agency and shall be set forth in the straight lease documents.

**SECOND:**

At such time as a proposed Project is reviewed, the members of the Agency must disclose any blood, marital or business relationships they or members of their families have or have had with the Applicant (or its affiliates). The Applicant represents that no member, manager, principal, officer or director of the Applicant has any such relationship with any member of the Agency (or any member of the family of any member of the Agency).

**THIRD:**

All applicants must disclose whether they have been appointed, elected or employed by New York State, any political division of New York State or any other governmental agency.

**FOURTH:**

All proposed lenders, title companies and their respective attorneys must be satisfactory to and approved in writing by the Agency.

Understood and Agreed to:

Name of  
Applicant: \_\_\_\_\_

By: \_\_\_\_\_  
Name/Title:

**CERTIFICATION AND AGREEMENT  
WITH RESPECT TO FEES AND COSTS**

The undersigned deposes and says: that I am an authorized representative of the Applicant named in the attached application for financial assistance ("Application") and that I hold the office specified below my signature at the end of this Certification and Agreement, that I am authorized and empowered to deliver this Certification and Agreement and the Application for and on behalf of the Applicant, that I am familiar with the contents of said Application (including all schedules and attachments thereto), and that said contents are true, correct and complete to my knowledge. Capitalized terms used but not otherwise defined in this Certification and Agreement shall have the meanings assigned to such terms in the Application.

The grounds of my belief relative to all matters in the Application that are not based upon my own personal knowledge are based upon investigations I have made or have caused to be made concerning the subject matter of this Application, as well as upon information acquired in the course of my duties and from the books and records of the Applicant.

As an authorized representative of the Applicant, I acknowledge and agree on behalf of the Applicant that the Applicant hereby releases the Nassau County Industrial Development Agency, its members, officers, servants, attorneys, agents and employees (collectively, the "Agency") from, agrees that the Agency shall not be liable for and agrees to indemnify, defend (with counsel selected by the Agency) and hold the Agency harmless from and against any and all liability, damages, causes of actions, losses, costs or expenses incurred by the Agency in connection with: (A) examination and processing of, and action pursuant to or upon, the Application, regardless of whether or not the Application or the financial assistance requested therein are favorably acted upon by the Agency, (B) the acquisition, construction and/or installation of the Project by the Agency, and (C) any further action taken by the Agency with respect to the Project; including, without limiting the generality of the foregoing, (i) all fees and expenses of the Agency's general counsel, transaction counsel, economic development consultant, real property tax valuation consultant and other experts and consultants (if deemed necessary or advisable by the Agency), and (ii) all other expenses incurred by the Agency in defending any suits, actions or proceedings that may arise as a result of any of the foregoing. If, for any reason whatsoever, the Applicant fails to conclude or consummate necessary negotiations or fails within a reasonable or specified period of time to take reasonable, proper or requested action or withdraws, abandons, cancels, or neglects the Application or is unable to secure third party financing or otherwise fails to conclude the Project, then upon presentation of an invoice by the Agency, its agents, attorneys or assigns, the Applicant shall pay to the Agency, its agents, attorneys or assigns, as the case may be, all fees and expenses reflected in any such invoice.

As an authorized representative of the Applicant, I acknowledge and agree on behalf of the Applicant that each of the Agency's general counsel, transaction counsel, economic development consultant, real property tax valuation consultant and other experts and consultants is an intended third-party beneficiary of this Certification and Agreement, and that each of them may (but shall not be obligated to) enforce the provisions of the immediately preceding paragraph, whether by lawsuit or otherwise, to collect the fees and expenses of such party or person incurred by the Agency (whether or not first paid by the Agency) with respect to the Application.

Upon successful closing of the "straight lease" transaction, the Applicant shall pay to the Agency an administrative fee set by the Agency (which amount is payable at closing) in accordance with the following schedule:

- (A) Six-tenths (6/10) of one percent (1%) for the first twenty million dollars (\$20,000,000) of total project costs and, if applicable, two-tenths (2/10) of one percent (1%) for any additional amounts in excess of twenty million dollars (\$20,000,000) of total project costs.

- (D) General Counsel Fee – One-tenth (1/10) of one percent (1%) of total project costs, with a minimum fee of \$2,000.
- (E) Two Thousand Five Hundred Dollars (\$2,500) closing compliance fee payable at closing and One Thousand Dollars (\$1,000) per year (or part thereof) administrative fee, payable in advance, at the closing for the first year (or part thereof) and on January 1st of each year for the term of the financing. The annual service fee is subject to periodic review and may be adjusted from time to time in the discretion of the Agency.
- (F) Refinancings – The Agency fee shall be determined on a case-by-case basis.
- (G) Assumptions – The Agency fee shall be determined on a case-by-case basis.
- (H) Modifications – The Agency fee shall be determined on a case-by-case basis.

Transaction counsel fees and expenses are payable at closing and are based on the work performed in connection with the Project.

Upon the termination of the Project, Applicant agrees to pay all costs in connection with any conveyance by the Agency to the Applicant of the Agency's interest in the Project and the termination of all related Project documents, including the fees and expenses of the Agency's general counsel, transaction counsel, and all applicable recording, filing or other related fees, taxes and charges.

\_\_\_\_\_  
 Name  
 Title:

Sworn to before me this \_\_\_\_\_  
 day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
 Notary Public

TABLE OF SCHEDULES:

<u>Schedule</u>	<u>Title</u>	<u>Complete as Indicated Below</u>
A.	Intentionally omitted	
B.	New York State Financial and Employment Requirements for Industrial Development Agencies	All applicants
C.	Guidelines for Access to Employment Opportunities	All applicants
D.	Anti-Raiding Questionnaire	If Applicant checked "YES" in Part I, Question Q.2. of Application
E.	Retail Questionnaire	If Applicant checked "YES" in Part II, Question P of Application (See Page 11)
F.	Applicant's Financial Attachments, consisting of:	All applicants
	1. Applicant's audited financial statements for the last two fiscal years (unless included in Applicant's annual reports).	
	2. Applicant's annual reports (or Form 10-K's) for the two most recent fiscal years.	
	3. Applicant's quarterly reports (Form 10-Q's) and current reports (Form 8-K's) since the most recent Annual Report, if any.	
	4. In addition, attach the financial information described above in items F1, F2, and F3 of any anticipated Guarantor of the proposed transaction, if different than the Applicant, including the personal financial statement of any anticipated Guarantor that is a natural person.	
	5. Dun & Bradstreet report.	
G.	Environmental Assessment Form	All applicants
H.	Other Attachments	As required



Schedule A

Intentionally omitted

**NEW YORK STATE FINANCIAL AND EMPLOYMENT REPORTING  
REQUIREMENTS FOR INDUSTRIAL DEVELOPMENT AGENCIES**

- A. Pursuant to applicable law, the Agency requires the completion of an Initial Employment Plan (see Schedule C) and a year-end employment plan status report, both of which shall be filed by the Nassau County Industrial Development Agency (the "Agency") with the New York State Department of Economic Development on January 15. The Project documents will require the Applicant to provide such report to the Agency on or before January 1 of each year, together with such employment verification information as the Agency may require.

Except as otherwise provided by collective bargaining agreements, the Applicant agrees to list any new employment opportunities with the New York Department of Labor Community Services Division and the administrative entity of the service delivery area created by the Federal Job Training Partnership Act (P.L. 97-300), or any successor statute thereto (the "JTPA Entities"). In addition, except as otherwise provided by collective bargaining agreements, the Applicant, where practicable, will first consider persons eligible to participate in JTPA programs who shall be referred by the JTPA Entities for such new employment opportunities.

- B. The Applicant will be required to file annually a statement with the New York State Department of Taxation and Finance and the Agency of the value of all sales or use tax exemptions claimed in connection with the Project by reason of the involvement of the Agency.
- C. Please be advised that the New York State Industrial Development Agency Act imposes additional annual reporting requirements on the Agency, and the Applicant will be required to furnish information in connection with such reporting, as follows:

The following information must be provided for straight-lease transactions entered into or terminated during the year:

Name, address and owner of the project; total amount of tax exemptions granted (broken out by state and local sales tax, property taxes, and mortgage recording tax); payments in lieu of taxes made; total real estate taxes on the Project prior to exemption; number of jobs created and retained, and other economic benefits realized.

Failure to provide any of the aforesaid information will constitute a DEFAULT under the Project documents to be entered into by the Agency and the Applicant in connection with the proposed Project.

Please sign below to indicate that the Applicant has read and understood the above and agrees to provide the described information on a timely basis.

Name of Applicant: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

GUIDELINES FOR ACCESS TO EMPLOYMENT OPPORTUNITIES

INITIAL EMPLOYMENT PLAN

Prior to the granting of financial assistance, the Applicant shall complete the following employment plan:

Applicant Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Type of Business: \_\_\_\_\_  
 Contact Person: \_\_\_\_\_ Tel. No.: \_\_\_\_\_

Please complete the following table describing the Applicant's projected employment plan following receipt of financial assistance:

Current and <u>Planned Occupations</u> (provide NAICS Code for each)	Current Number Full Time Equivalent <u>Jobs Per Occupation</u>		<u>Estimated Number of Full Time Equivalent Jobs in the County After Completion of the Project:</u>		
			<u>1 year</u>	<u>2 years</u>	<u>3 years</u>
	<u>County</u>	<u>Statewide</u>			
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

Please indicate the number of temporary construction jobs anticipated to be created in connection with the acquisition, construction and/or renovation of the Project:

Please indicate the estimated hiring dates for the new jobs shown above and any special recruitment or training that will be required:

\_\_\_\_\_  
 \_\_\_\_\_

Are the Applicant's employees currently covered by a collective bargaining agreement?

YES \_\_\_\_\_

NO \_\_\_\_\_

IF YES, Union Name and Local: \_\_\_\_\_

Please note that the Agency may utilize the foregoing employment projections, among other things, to determine the financial assistance that will be offered by the Agency to the Applicant. The Applicant acknowledges that the transaction documents may include a covenant by the Applicant to retain the above number of jobs, types of occupations and amount of payroll with respect to the proposed project.

Attached hereto is a true, correct and complete copy of the Applicant's most recent Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return (Form NYS-45-MN) (first page only). Upon request of the Agency, the Applicant shall provide such other or additional information or documentation as the Agency may require with respect to the Applicant's current employment levels in the State of New York.

The UNDERSIGNED HEREBY CERTIFIES that the answers and information provided above and in any statement attached hereto are true, correct and complete.

Name of Applicant: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**ANTI-RAIDING QUESTIONNAIRE**

(To be completed by Applicant if Applicant checked "YES" in Part I, Question Q.2 of the Application for Financial Assistance)

A. Will the completion of the Project result in the removal of a plant or facility of Applicant, or of a proposed occupant of the Project, from an area in New York State (but outside of Nassau County) to an area within Nassau County?

YES \_\_\_\_\_ NO \_\_\_\_\_

If the answer to Question A is YES, please provide the following information:

Address of the to-be-removed plant or facility: \_\_\_\_\_  
\_\_\_\_\_

Names of all current occupants of the to-be-removed plant or facility: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

B. Will the completion of the Project result in the abandonment of one or more plants or facilities of the Applicant, or of a proposed occupant of the Project, located in an area of the State of New York other than in Nassau County?

YES \_\_\_\_\_ NO \_\_\_\_\_

If the answer to Question B is YES, please provide the following information:

Addresses of the to-be-abandoned plants or facilities: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Names of all current occupants of the to-be-abandoned plants or facilities:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

C. Has the Applicant contacted the local industrial development agency at which its current plants or facilities in New York State are located with respect to the Applicant's intention to move or abandon such plants or facilities?

YES \_\_\_\_\_ NO \_\_\_\_\_

If the answer to Question C is YES, please provide details in a separate attachment.

IF THE ANSWER TO EITHER QUESTION A OR B IS "YES", ANSWER QUESTIONS D AND E.

D. Is the Project reasonably necessary to preserve the competitive position of the Applicant, or of a proposed occupant of the Project, in its industry?

YES \_\_\_\_\_ NO \_\_\_\_\_

E. Is the Project reasonably necessary to discourage the Applicant, or a proposed occupant of the Project, from removing such plant or facility to a location outside of the State of New York?

YES \_\_\_\_\_ NO \_\_\_\_\_

IF THE ANSWER TO EITHER QUESTION D OR E IS "YES", PLEASE PROVIDE DETAILS IN A SEPARATE ATTACHMENT.

THE UNDERSIGNED HEREBY CERTIFIES that the answers and information provided above and in any statement attached hereto are true, correct and complete.

Name of Applicant: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

RETAIL QUESTIONNAIRE

(To be completed by Applicant if Applicant checked either "YES" in Part II, Question P of the Application for Financial Assistance)

- A. Will any portion of the Project (including that portion of the cost to be financed from equity or other sources) consist of facilities or property that are or will be primarily used in making retail sales to customers who personally visit the Project?

YES \_\_\_\_

NO \_\_\_\_

For purposes of Question A, the term "retail sales" means (i) sales by a registered vendor under Article 28 of Tax Law of the State of New York (the "Tax Law") primarily engaged in the retail sale of tangible personal property (as defined in Section 1101(b)(4)(i) of the Tax Law), or (ii) sales of a service to customers who personally visit the Project.

- B. If the answer to Question A is YES, what percentage of the cost of the Project (including that portion of the cost to be financed from equity or other sources) will be expended on such facilities or property primarily used in making retail sales of goods or services to customers who personally visit the Project?

\_\_\_\_\_ %

- C. If the answer to Question A is YES, and the amount entered for Question B is greater than 33.33%, indicate whether any of the following apply to the Project:

1. Will the Project be operated by a not-for-profit corporation?

YES \_\_\_\_

NO \_\_\_\_

2. Is the Project likely to attract a significant number of visitors from outside the economic development region (i.e., Long Island) in which the Project is or will be located?

YES \_\_\_\_

NO \_\_\_\_

3. Would the Project occupant, but for the contemplated financial assistance from the Agency, locate the related jobs outside the State of New York?

YES \_\_\_\_

NO \_\_\_\_

4. Is the predominant purpose of the Project to make available goods or services which would not, but for the Project, be reasonably accessible to the residents of the city, town or village within which the Project will be located, because of a lack of reasonably accessible retail trade facilities offering such goods or services?

YES \_\_\_\_

NO \_\_\_\_

5. Will the Project be located in one of the following: (a) an area designed as an economic development zone pursuant to Article 18-B of the General Municipal Law; or (b) a census tract or block numbering area (or census tract or block numbering area contiguous thereto) which, according to the most recent census data, has (i) a poverty rate of at least 20% for the year in which the data relates, or at least 20% of the households receiving public assistance, and (ii) an unemployment rate of at least 1.25 times the statewide unemployment rate for the year to which the data relates?

YES \_\_\_\_\_

NO \_\_\_\_\_

If the answer to any of the subdivisions 1 through 5 of Question C is YES, attach details.

D. If the answer to any of the subdivisions 3 through 5 of Question C is YES, will the Project preserve permanent, private sector jobs or increase the overall number of permanent, private sector jobs in the State of New York? If YES, attach details.

YES \_\_\_\_\_

NO \_\_\_\_\_

E. State percentage of the Applicant's annual gross revenues comprised of each of the following:

Retail Sales: \_\_\_\_\_%

Services: \_\_\_\_\_%

F. State percentage of Project premises utilized for same:

Retail Sales: \_\_\_\_\_%

Services: \_\_\_\_\_%

The UNDERSIGNED HEREBY CERTIFIES that the answers and information provided above and in any statement attached hereto are true, correct and complete.

Name of Applicant: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_



APPLICANT'S FINANCIAL ATTACHMENTS

ENVIRONMENTAL ASSESSMENT FORM

OTHER ATTACHMENTS

Doc # 05-391133.2