

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

THIS INDENTURE made this 17th day of December, 2013, between Sonny Gitlin (who is also known as Sophie or Sunny), residing at 91 Morley Circle, Melville, New York 11741 and Garry Gitlin, residing at 606 Marion Drive, East Meadow, New York 11554, as Trustees of the testamentary trust created under the Last Will and Testament of Elliott Gitlin dated September 26, 1994 and admitted to probate in the Surrogate's Court of Nassau County on February 22, 1995 (the "Grantor"), and the People of the State of New York (the "Grantee"), acting through their Commissioner of Environmental Conservation (the "Commissioner" or "Department" as the context requires) with offices at the Department of Environmental Conservation, at 625 Broadway, Albany, New York 12233; and

WHEREAS, the Legislature of the State of New York has declared that contaminated site remedial programs are an important and necessary component of the State's policy of restoring and revitalizing real property located throughout New York State that threaten the health and vitality of the communities they burden; and

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to establish within the Department a statutory environmental remediation program that includes the use of environmental easements as an enforceable means of ensuring the performance of maintenance, monitoring or operation requirements and of ensuring the potential restriction of future uses of the land, when an environmental remediation project leaves residual contamination at levels that have been determined to be safe for a specific use, but not all uses, or which includes engineered structures that must be maintained or protected against damage to be effective, or which requires groundwater use restrictions; and

WHEREAS, the Legislature of the State of New York has declared that an environmental easement shall mean an interest in real property, created under and subject to the provisions of Article 71, Title 36 of the New York State Environmental Conservation Law ("ECL") which contains a use restriction and/or a prohibition on the use of land in a manner inconsistent with engineering controls which are intended to ensure the long term effectiveness of a contaminated site remedial program or eliminate potential exposure pathways to hazardous waste or petroleum; and

WHEREAS, in a Record of Decision dated March 2008, the Department set forth a remedy to eliminate or mitigate all significant threats to the public health and the environment presented by the Railroad Drive-In Cleaners Site currently listed in the Registry of Inactive Hazardous Waste Disposal Sites in New York State as Site Number 1-30-066 ("Site"); and

WHEREAS, the selected remedy for the Site includes, inter alia, remediation of contaminated groundwater using extraction and treatment; remediation of contaminated soil using soil vapor extraction; and the development of a Site Management Plan ("SMP") that will (a) restrict excavation below the pavement or buildings, and require that excavated soils be tested, handled properly for the protection of the health and safety of workers and the nearby

community, and managed in a manner acceptable to the Department, (b) monitor groundwater, and (c) provide for the continued proper operation and maintenance of the components of the remedy; and the imposition of an institutional control in the form of an environmental easement that will require (a) compliance with the approved site management plan; (b) restricting the use of groundwater as a source of potable or process water, without necessary water quality treatment as determined by New York State Department of Health (“NYSDOH”); (c) the property owner to complete and submit to the Department a periodic certification regarding institutional and engineering controls; and (d) limiting the use and development of the property to commercial use, which will also permit industrial use; and

WHEREAS, Grantor is the owner of the Site, which is real property located at 3180 Lawson Boulevard, Oceanside, Town of Hempstead, Nassau County, New York, known as and designated on the tax map of the County Clerk of Nassau as tax map parcel numbers: Section 43 Block 209, Lots 37 and 38, being the same as that property conveyed to Grantor by deed dated July 3, 1996, and recorded in the Land Records of Nassau County at Book 10678 Page 429. The Site is approximately 0.092 acres, and hereinafter more fully described in the Land Title Survey dated February 26, 2012 prepared by William R. Simmons, III, L.S.P.C., final surveyed on July 16, 2013. The property description (the “Controlled Property”) is set forth in and attached here to as Schedule A; and

WHEREAS, the Department accepts this Environmental Easement in order to ensure the protection of human health and the environment and to achieve the requirements for remediation established at this Site until such time as this Environmental Easement is extinguished pursuant to ECL Article 71, Title 36.

NOW THEREFORE, in consideration of the covenants and mutual promises contained herein and the terms and conditions of the Judicial Consent Decree dated 9/20/2012, Grantor grants, conveys and releases to Grantee an Environmental Easement pursuant to Article 71, Title 36 of the ECL in, on, over, under, and upon the Controlled Property as more fully described herein (“Environmental Easement”).

1. Purposes. Grantor and Grantee acknowledge that the purposes of this Environmental Easement are: to convey to Grantee real property rights and interests that will run with the land in perpetuity in order to provide access for the construction of the remedy selected in the ROD and the performance of operation, maintenance, and/or monitoring; and to provide an effective and enforceable means of ensuring compliance with the restrictions and the performance of the obligations contained herein; and to ensure the potential restriction of future uses of the land for the protection of human health and the environment.

2. Institutional and Engineering Controls. The following controls apply to the use of the Controlled Property, run with the land, are binding on the Grantor and the Grantor’s successors and assigns, and are enforceable in law or equity against any owner of the Controlled Property, any lessees, and any person using the Controlled Property:

A. The Controlled Property may be used for restricted **commercial use**, as defined in 6

N.Y.C.R.R. Part 375, which includes restricted **industrial** use, as long as the following long-term engineering controls are employed:

i. No activity that will, or could be reasonably anticipated to, interfere with the remedial program at the Controlled Property (i.e., damage to the Site, groundwater monitoring wells, soil vapor extraction system) or otherwise result in an increased threat of harm to human health or the environment, shall be conducted on the Controlled Property without prior written approval from the Department.

ii. No physical construction, including, inter alia, excavation below the pavement or buildings, or change of use within the Controlled Property shall be undertaken without prior written approval from the Department.

iii. The Controlled Property shall not be used for day care, child care or medical/health care uses without prior written approval from NYSDOH.

iv. The groundwater underlying the Controlled Property shall not be used as a source of potable or process water, without necessary water quality treatment as determined by NYSDOH.

v. Grantor hereby acknowledges that the ROD requires the development of a SMP which will require that excavated soils be tested, handled properly for the protection of the health and safety of workers and the nearby community, and managed in a manner acceptable to the Department and that these requirements are a fundamental element of the Department's determination that the Controlled Property is safe for a specific use, but not all uses. Grantor assumes on behalf of Grantor and its successors and assigns such testing, handling, and management obligations with respect to soils which the Grantor or its successors and assigns excavate.

B. The Controlled Property may not be used for a higher level of use such as **unrestricted** or **restricted residential** use, as defined in 6 N.Y.C.R.R. Part 375, and the above-stated engineering controls may not be discontinued without an amendment or extinguishment of this Environmental Easement.

C. Grantor covenants and agrees that until such time as the Environmental Easement is extinguished in accordance with the requirements of Article 71, Title 36 of the ECL, all subsequent instruments of conveyance relating to the Controlled Property shall state in at least fifteen-point bold-faced type:

This property is subject to an environmental easement held by the New York State Department of Environmental Conservation pursuant of Title 36 to Article 71 of the Environmental Conservation Law.

D. Grantor covenants and agrees that this Environmental Easement shall be incorporated

in full or by reference in any leases, licenses, or other instruments granting a right to use the Controlled Property.

E. Grantor covenants and agrees that it shall annually, or at such time as the Department may allow, submit to the Department a written statement by an expert that the Department may find acceptable, which may, at the Department's sole discretion, include Grantor or Grantor's successors, certifying under penalty of perjury that the institutional controls employed at the Controlled Property are unchanged from the previous certification, that the engineering controls employed at the Controlled Property remain undisturbed and accessible, and that nothing has occurred that would impair the ability of such controls to protect the public health and environment or constitute a violation or failure to comply with any Site Management Plan for such controls.

F. Grantor covenants and agrees that it shall notify the Department of any work, action or change of use in or around the Controlled Property which may affect the groundwater monitoring wells, groundwater treatment system or the soil vapor extraction system, including any direct damage to same, or result in the excavation of soil below the pavement or buildings.

3. Right to Enter and to Inspect. Grantee, its agents, employees, or other representatives of the State may enter the Controlled Property to construct, operate and maintain the remedy; and may enter and inspect the Controlled Property in a reasonable manner and at reasonable times to assure compliance with the above-stated restrictions.

4. Reserved Grantor's Rights. Grantor reserve for itself, its assigns, representatives, and successors in interest with respect to the Property, all rights as fee owner of the Controlled Property, including:

A. Use of the Controlled Property for all purposes not inconsistent with, or limited by the terms of this Environmental Easement;

B. The right to give, sell, assign, or otherwise transfer the underlying fee interest to the Controlled Property by operation of law, by deed, or by indenture, subject and subordinate to this Environmental Easement.

5. Enforcement.

A. This Environmental Easement is enforceable in law or equity in perpetuity by Grantor, Grantee, or any affected local government, as defined in ECL Section 71-3603, against the owner of the Property, any lessees, and any person using the land. Enforcement shall not be defeated because of any subsequent adverse possession, laches, estoppel, or waiver. It is not a defense in any action to enforce this Environmental Easement that: it is not appurtenant to an interest in real property; it is not of a character that has been recognized traditionally at common law; it imposes a negative burden; it imposes affirmative obligations upon the owner of any interest in the burdened property; the benefit does not touch or concern real property; there is no privity of estate or of contract; or it imposes an unreasonable restraint on alienation.

B. Grantee shall notify Grantor of a breach or suspected breach of any of the terms of this Environmental Easement. Such notice shall set forth how Grantor can cure such breach or suspected breach and give Grantor a reasonable amount of time from the date of receipt of notice in which to cure. At the expiration of such period of time to cure, or any extensions granted by Grantee, the Grantee shall notify Grantor of any failure to adequately cure the breach or suspected breach. Grantor shall then have a reasonable amount of time from receipt of such notice to cure. At the expiration of said second period, Grantee may commence any proceedings and take any other appropriate action reasonably necessary to remedy any breach of this Environmental Easement in accordance with applicable law to require compliance with the terms of this Environmental Easement.

C. The failure of Grantee to enforce any of the terms contained herein shall not be deemed a waiver of any such term nor bar its enforcement rights in the event of a subsequent breach of or noncompliance with any of the terms of this Environmental Easement.

6. Notice. Whenever notice to the State or approval from the State is required, the Party providing such notice or seeking such approval shall identify the Controlled Property by referencing its associated County tax map number or the Liber and Page or computerized system tracking/ identification number. All correspondence shall be addressed to:

Parties shall address correspondence to: Site Number: 130066
Office of General Counsel
NYSDEC
625 Broadway
Albany New York 12233-5500

With a copy to: Site Control Section
Division of Environmental Remediation
NYSDEC
625 Broadway
Albany, NY 12233

Such correspondence shall be delivered by hand, registered mail, or certified mail, return-receipt requested. The Parties may provide for other means of receiving and communicating notices and responses to requests for approval.

7. Recordation. Grantor shall record this Environmental Easement within thirty (30) days of its execution by the Commissioner or the Commissioner's Designee in the office of the recording officer for Nassau County in the manner prescribed by Article 9 of the Real Property Law.

8. Amendment. This Environmental Easement may be amended only by an amendment executed by the Commissioner or the Commissioner's Designee and filed with the office of the recording officer for Nassau County in the manner prescribed by Article 9 of the Real Property Law.

9. Extinguishment. This Environmental Easement may be extinguished only by a release executed by the Commissioner or the Commissioner's Designee and filed with the office of the recording officer for Nassau County in the manner prescribed by Article 9 of the Real Property Law.


10. Joint Obligation. If there are two or more parties identified as Grantors herein, the obligations imposed by this instrument upon them shall be joint and several.

IN WITNESS WHEREOF, Grantor has caused this instrument to be signed in its name.


Sonny Gitlin and Garry Gitlin, as Trustees of the trust created under the Last Will and Testament of Elliott Gitlin

By:

SONNY GITLIN, Trustee



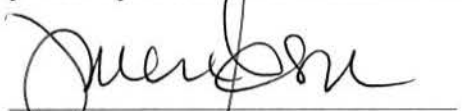
GARRY GITLIN, Trustee



Grantor's Acknowledgments

STATE OF New York)
) ss:
COUNTY OF Suffolk)

On the 1 day of NOV, in the year 2013, before me, the undersigned, personally appeared Sophie Gitlin, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



Notary Public

VALERIE E SHIELDS
Notary Public - State of New York
No. 01SH6284507
Qualified in Suffolk County
My Commission Expires June 17, 2017

For Sonny Gitlin

STATE OF New York)
) ss:
COUNTY OF NASSAU)

On the 7th day of November, in the year 2013, before me, the undersigned, personally appeared Gary Gitlin, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



Notary Public

ROBERT LUPFER JR.
Notary Public, State of New York
No. 01LU6234511
Qualified in Nassau County
Commission Expires January 24, 2015

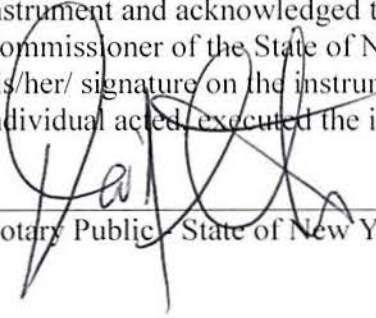
THIS ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY THE PEOPLE OF THE STATE OF NEW YORK, Acting By and Through the Department of Environmental Conservation as Designee of the Commissioner

By: 
**Robert W. Schick, Director
Division of Remediation**

Grantee's Acknowledgment

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

On the 17th day of December, in the year 2013, before me, the undersigned, personally appeared Robert W. Schick, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/ executed the same in his/her/ capacity as Commissioner of the State of New York Department of Environmental Conservation, 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, State of New York

David J. Chiusano
Notary Public, State of New York
No. 01CH5032146
Qualified in Schenectady County
Commission Expires August 22, 2014

SCHEDULE A PROPERTY DESCRIPTION

All that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situated, lying and being at Oceanside, not an incorporated village, in the Town of Hempstead, County of Nassau and State of New York, known and designated as Lots 1 and 2 in Block 38, on a certain map entitled, "Map Number 18 of Oceanside Beach, Oceanside, Nassau County, New York and filed November 25, 1927 in the office of the Clerk of the County of Nassau on Map Number 644 New Number 915, bounded and described as follows:

BEGINNING at the corner formed by the intersection of the southerly side of Weidner Avenue (Oceanside Parkway) with the westerly side of Lawson Avenue (Lawson Boulevard);

RUNNING THENCE southerly along the westerly side of Lawson Avenue, 40 feet;

THENCE westerly parallel with the southerly side of Weidner Avenue, 100 feet;

THENCE northerly parallel with the westerly side of Lawson Avenue, 40 feet to the southerly side of Weidner Avenue;

THENCE easterly along the southerly side of Weidner Avenue, 100 feet to the corner, the point or place of BEGINNING.

Said premises being known as 3180 Lawson Boulevard, Oceanside, New York

Section: 43, Block: 209, Lots: 37 and 38.

SURVEYED FOR: LUSON CLEANERS
 3180 LAWSON BOULEVARD
 OCEANSIDE, NEW YORK, 11572
 LOCATED AT: OCEANSIDE, NASS. CO. N.Y.
 LOTS: 1 & 2-BLOCK 38
 MAP OF: "NO. 18 OF OCEANSIDE BEACH"
 (FILED: 11-25-1927 MAP#644 & NEW #915)

SCALE: 1"=30'

N.C.T.M.#
 SEC. 43-BLOCK 209-LOT 37 & LOT 38

LOT AREA=4000 sq.ft. or 0.09 acres

- LEGEND:
- CONCRETE BOLLARDS
 - ⊠ GAS METER
 - OVERHEAD WIRES
 - PATH OF LEGAL ACCESS INGRESS & EGRESS

Note:
 There are no ponds, lakes, springs, rivers or a natural water boundary bordering on or running through the survey property.

Note:
 No apparent environmental easement running through the surveyed property.

Note:
 Subsurface Utilities not located nor visible.



Schedule "A" Description

All that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being at Oceanside, not an incorporated village, in the Town of Hempstead, County of Nassau and State of New York, known and designated as Lots 1 and 2 in Block 38, on a certain map entitled, "Map Number 18 of Oceanside Beach, Oceanside, Nassau County, New York," and filed November 25, 1927 in the office of the Clerk of the County of Nassau on Map Number 644 new Number 915, bounded and described as follows:

BEGINNING at the corner formed by the intersection of the southerly side of Weidner Avenue (Oceanside Parkway) with the westerly side Lawson Avenue (Lawson Boulevard);

RUNNING THENCE southerly along the westerly side of Lawson Avenue, 40 feet;

THENCE westerly parallel with the southerly side of Weidner Avenue, 100 feet;

THENCE northerly parallel with the westerly side of Lawson Avenue, 40 feet to the southerly side of Weidner Avenue.

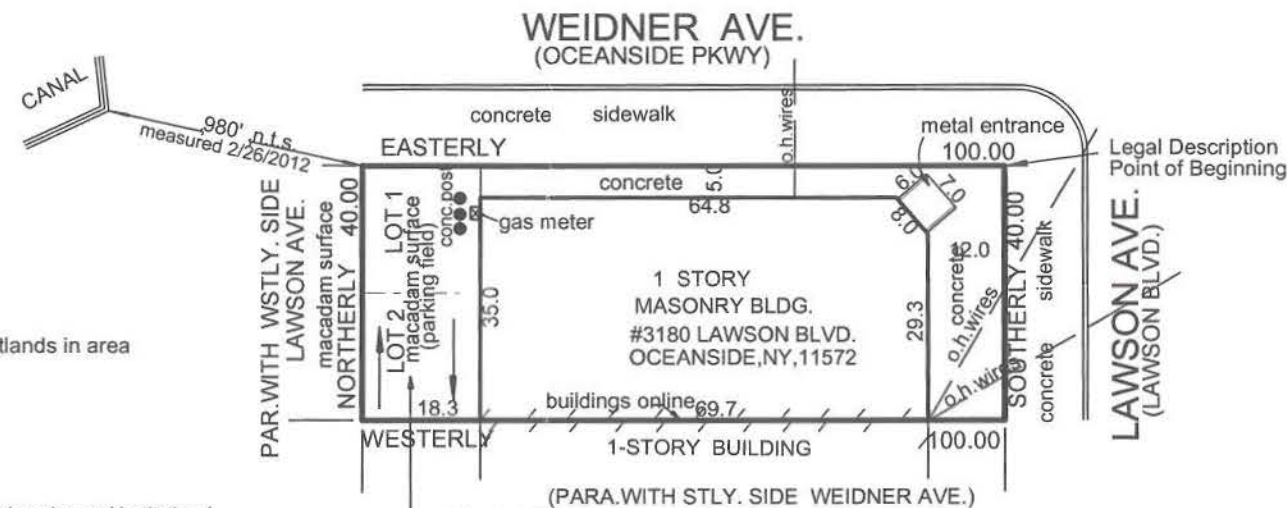
THENCE easterly along the southerly side of Weidner Avenue, 100 feet to the corner, the point or place of BEGINNING.

Said premises being known as 3180 Lawson Boulevard, Oceanside, New York, 11572

Note:
 No wetlands in area

Note:
 "The engineering and institutional controls for this Easement shall be set forth in the Site Management Plan (SMP). A Copy of the SMP can be obtained by any party with an interest in the property. The SMP can be obtained from NYS Department of Environmental Conservation, Division of Environmental Remediation, Site Control Section, 625 Broadway, Albany, NY 12233 or at derweb@gw.dec.state.ny.us"

Blanket Floating easement of ingress & egress over, on and through the macadam parking field for waste line, public sewer or cesspool. Deed 9445 Page 174



Certified to the People of the State of New York acting through its Commissioner of the Department of Environmental Conservation, Old Republic National Title Insurance Company, and to Sonny Gitlin and Garry Gitlin as Trustees u/w/o Elliott Gitlin.



FILE NO. 48015

ORIGINAL DATE SURVEYED: FEBRUARY 26, 2012
 FINAL SURVEYED ON: JULY 16, 2013

| | | |
|--|-----------------|------------------|
| WILLIAM R. SIMMONS III, L.S.P.C. | | |
| 128 CARLETON AVE. EAST ISLIP, N.Y. 11730 | | |
| PH. (631) 581-1688 FX. (631) 581-1691 | | |
| DATE: 7/16/2013 | SCALE: 1" = 30' | DRAWN BY: WRS IV |