

Environmental Covenant

WHEN RECORDED, RETURN TO:

Jonathan H. Spergel, Esquire
Manko, Gold, Katcher & Fox LLP
401 City Avenue, Suite 901
Bala Cynwyd, PA 19004

The County Parcel Identification No. of the Property is: 33-005-36-001, 33-005-36-002, and 33-005-107-001, and 33-005-94

GRANTOR: 601 Spruce Street Investment Partners, LLC
PROPERTY ADDRESS: 601 West Spruce Street, Perkasio, PA 18944

ENVIRONMENTAL COVENANT

This Environmental Covenant is executed pursuant to the Pennsylvania Uniform Environmental Covenants Act, Act No. 68 of 2007, 27 Pa. C.S. §§ 6501 — 6517 ("UECA"). This Environmental Covenant subjects the Property identified in Paragraph 1 to the activity and/or use limitations in this document. As indicated later in this document, this Environmental Covenant has been approved by the Pennsylvania Department of Environmental Protection ("PADEP" or the "Department").

1. **Property Affected.** The property affected ("Property") by this Environmental Covenant is located in Perkasio Borough, Bucks County.

The postal street address of the Property is: 601 West Spruce Street, Perkasio, PA 18944.

The County Parcel Identification Numbers of the Property are: 33-005-36-001, 33-005-36-002, 33-005-107-001, and 33-005-94.

The latitude and longitude of the center of the Property affected by this Environmental Covenant is: Latitude: +40° 22' 19.022" Longitude -75° 17' 55.838"

The PADEP Primary facility ID# are 620302 and 844566.

The Property has been known by the following names: Delbar Products, Inc. Site, the Delbar Site.

A complete description of the Property is attached to this Environmental Covenant as Exhibit A. A map of the Property is attached to this Environmental Covenant as Exhibit B.

2. **Property Owner/GRANTOR:** 601 Spruce Street Investment Partners, LLC is the Owner of the Property.

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3. The mailing address of the Owner/Grantor is:

601 Spruce Street Investment Partners, LLC
c/o Mr. James Cassidy
279 West Walnut Lane
Philadelphia, PA 19144.

4. **Description of Contamination & Remedy.** Since the early 2000's investigations of the Property, first by the U.S. Environmental Protection Agency ("EPA"), then by Delbar Products Incorporated Liquidating Trust, the former owner of the Property, the Department, and most recently by Owner, identified the presence of trichloroethylene (TCE) and TCE breakdown products in certain soil, groundwater and bedrock groundwater samples at the Property in concentrations in excess of applicable Medium Specific Concentrations ("MSCs") established pursuant to the Pennsylvania Land Recycling and Environmental Remediation Standards Act, as amended, and its implementing regulations ("Act 2"). Between 2011 and 2019, the Department conducted investigations of the Property as part of the Perkasié TCE HSCA Site pursuant to the Hazardous Sites Cleanup Act ("HSCA"), and, identified;

- Concentrations of TCE in one bedrock monitoring well at the Property ranging between 24,000 ug/L to 143,000 ug/L.
- Exceedances of soil-to-groundwater Statewide health standard MSCs for TCE and TCE breakdown products in soil on the Delbar Property.
- Exceedances of MSCs for TCE and breakdown products in shallow groundwater on the Delbar Property.
- Exceedances of MSCs for TCE and breakdown products in bedrock groundwater at the Property downgradient property boundary and in other downgradient monitoring wells.
- Exceedances of Chapter 93 criteria for TCE and breakdown products in a groundwater seep behind the Property, in the unnamed tributary (UNT) to the East Branch Perkiomen Creek adjacent to Delbar, and in the UNT immediately downstream from the Property.

Delbar Products Incorporated Liquidating Trust also previously identified localized concentrations of certain RCRA metals in soils beneath the existing building concrete slab. A carbon filtration system is in place at the Property building to treat groundwater that enters the elevator shaft to the building, with treated water discharged pursuant to a NPDES permit to a storm drain located along 5th Avenue.

In 2007, Delbar Products, Inc. endeavored an Act 2 remediation of the Site and attempted to demonstrate attainment of a background standard for onsite soils and groundwater. However, as described above, between 2011 and 2019, the Department's investigation revealed that the Property was a contamination source and that further characterization and remediation of hazardous substances was required to attain an Act 2 cleanup standard, thus invalidating Delbar Products, Inc.'s prior Act 2 attainment demonstration based upon the background standard for onsite soils and groundwater.

In November 2017, Owner, purchased the Property, and on June 1, 2020, Owner entered into a Consent Order and Agreement (the "2020 COA") with the Department pursuant to Sections 505(c) and 1102 of HSCA, 35 P.S. §§ 6020.505(c) and 6020.1102, wherein Owner agreed to complete the characterization as well as remediation of the Property and attain a cleanup standard pursuant to Act 2 and 25 Pa. Code Ch. 250. Owner submitted a Notice of Intent to Remediate ("NIR") for the Property pursuant to Act 2 to the Department on September 17, 2020. The NIR identified that Owner would remediate certain VOCs and inorganic contaminants in soil and groundwater to residential Statewide Health Standards under Act 2, and would remediate other VOCs and inorganic contaminants in soil and groundwater to residential Site Specific Standards under Act 2. Owner subsequently submitted a Remedial Investigation Report for the Property pursuant to Act 2 dated April 2, 2021, received by the Department on April 6, 2021; as of the date of this Environmental Covenant, the Department is still reviewing the Remedial Investigation Report.

The Property was previously subject to an Environmental Covenant that was recorded on 2/11/2011, at Deed Book 6653, Page 1361, which was terminated by a Termination of Environmental Covenant recorded on _____, 2021, Instrument No. ____ in the Bucks County Deed Recorders Office.

The administrative record for the site is located at the Department's Southeast Regional Office, 2 E. Main St., Norristown, PA 19401.

5. **Activity and Use Limitations.** The Property is subject to the following activity and use limitations, which the Grantee identified in this Environmental Covenant listed in Paragraph 3, and its tenants, agents, employees and other persons under its control, and any transferee of an interest in the Property, shall abide by:

- a. Groundwater use shall be prohibited.
- b. The concrete floor of the building shall be removed to allow for the installation of vapor mitigation, and shall be restored after such installation is complete. Thereafter, the concrete floor shall remain in place unless the Department approves in writing an Act 2 Final Report submission for the soils and, if necessary, groundwater underlying the building that determines the concentrations of RCRA metals in the soils

are below the applicable Statewide Health Standards for the intended Property use; or the Department approves in writing an Act 2 Final Report for the soils and groundwater underlying the building and, a plan describing the intended Property uses and the engineering controls that will be implemented to eliminate potential exposure pathways.

- c. The annual inspection of the concrete floor of the building to ensure that the integrity of the floor is maintained.
- d. The maintenance of the water treatment system treating the groundwater that enters the elevator shaft (which system has not been operational for several years since Delbar Products, Inc. ceased operations at the Property), and the compliance with the NPDES permit until such time that the Department approves in writing an Act 2 Final Report submission of the groundwater underlying the Property that determines that the concentrations of contaminants in groundwater are below the applicable groundwater MSCs, or engineering controls, previously approved by the Department, have eliminated the need to remove and discharge water accumulating in the elevator shaft and have eliminated any potential exposure pathway.
- e. Before any structures at the Property are occupied for either residential or nonresidential purposes, the Grantor shall either: (1) evaluate the potential for vapor intrusion in such structures in accordance with the Department's then current Technical Guidance Manual ("TGM"), and if necessary in structures prior to any occupancy; or (2) implement vapor intrusion mitigation for such structure, in accordance with the TGM. Prior to occupation of any such structures, the then-current owner of the Property shall submit a vapor investigation/ mitigation report to the Department, demonstrating compliance with the TGM, for the Department's review and approval. Plans for mitigation systems will be submitted for the Department's review and approval and indoor air sampling will be performed prior to occupancy. All vapor intrusion investigation, risk assessment, and mitigation information will also be submitted to the Department in corresponding Act 2 reports. The Grantor shall establish and describe in its Final Report financial assurance such as an escrow account, to ensure maintenance of any vapor intrusion mitigation measures. Residential tenants, owners or occupiers shall not be responsible for maintenance of vapor intrusion mitigation measures at the Property.
- f. Any other engineering or institutional controls that may be required in order for Owner to satisfy its remedial obligations pursuant to the 2020

COA and demonstrate attainment with applicable Act 2 remediation standards for the property given the intended residential reuse of the Property. In the event that any such controls are required, Owner or the then Current Owner shall be required to amend this environmental covenant to reflect such additional controls. Any amendment will be subject to the Department's review and approval.

- g. Owner or the then current owner shall comply with the terms of a Department-approved Soil Management Plan ("SMP") for management and disposal of disturbed subsurface strata and soils consistent with Pennsylvania environmental statutes and regulations, including a requirement for any workers handling or exposed to such subsurface strata and soils to develop and comply with a Health and Safety Plan ("HASP"). Owner or the then current owner shall submit the SMP for the Department's review and approval at least 30 days prior to commencement of disturbance of subsurface strata and soils, and the SMP shall be deemed approved by the Department if no response is received from the Department within 30 days after submission of the SMP.

6. **Notice of Limitations in Future Conveyances.** Each instrument hereafter conveying any interest in the Property subject to this Environmental Covenant shall contain a notice of the activity and use limitations set forth in this Environmental Covenant and shall provide the recorded location of this Environmental Covenant.

7. **Compliance Reporting.** After written request by the PADEP, the then current owner of the Property shall submit to the PADEP written documentation stating whether or not the activity and use limitations in this Environmental Covenant are being abided by. In addition, within one (1) month after any of the following events, the then current owner of the Property shall submit, to the Department and any Holder listed in Paragraph 3, written documentation of: becoming aware of noncompliance with the activity and use limitations in this Environmental Covenant; transfer of all or any part of the Property; or filing of applications for building permits for the Property and any proposals for any site work, if the building or proposed site work will affect the contamination on the Property subject to this Environmental Covenant.

8. **Access by the Department.** In addition to any rights already possessed by PADEP, this Environmental Covenant grants to PADEP a right of reasonable access of the Property in connection with implementation or enforcement of this Environmental Covenant.

9. **Recording & Proof & Notification.** Within 30 days after the date of the Department's approval of this Environmental Covenant, Grantor shall file this Environmental Covenant with the Recorder of Deeds for Bucks County, and send a file-stamped copy of this Environmental Covenant to the Department. Within that time period, Grantor, also shall send a

file-stamped copy to Perkasio Borough, Bucks County, and each person holding a recorded interest in the Property; and each person in possession of a portion of the Property.

10. **Termination or Modification:**

- a. This Environmental Covenant may only be terminated or modified in accordance with 27 Pa. CS. §§ 6509 or 6510, or in accordance with this paragraph.
- b. This Environmental Covenant may be amended or terminated as to any portion of the Property that is acquired for use as state highway right-of-way by the Commonwealth provided that: (1) the Department waives the requirements for an environmental covenant and for conversion pursuant to 27 Pa. C.S. §6517 to the same extent that this Environmental Covenant is amended or terminated; (2) the Department determines that termination or modification of this Environmental Covenant will not adversely affect human health or the environment; and (3) the Department provides thirty (30) days' advance written notice to the current property owner, each holder, and, as practicable, each person that originally signed the Environmental Covenant or successors in interest to such persons.
- c. This Environmental Covenant shall terminate upon attainment, in accordance with 35 P.S. §§ 6026. 101 — 6026.908, with an unrestricted use remediation standard for the above-described contamination at the Property. The Department must approve, in writing, of such termination.
- d. In accordance with 27 Pa. C.S. § 6510(a)(3)(i), the Grantor hereby waives its right to consent to any amendment or termination of the Environmental Covenant by consent unless such amendment or termination would modify, negate or in any way impact any engineering or institutional controls established by this Environmental Covenant; it being intended that any amendment to or termination of this Environmental Covenant by consent in accordance with this Paragraph requires only the following signatures on the instrument amending or terminating this Environmental Covenant: (i) the Holder at the time of such amendment or termination; (ii) the then current owner of the Property and (iii) the Department.

11. **Department's Address.** Communications with the PADEP regarding this Environmental Covenant shall be sent to:

Regional Manager
Pennsylvania Department of Environmental Protection
Southeast Regional Office

Environmental Cleanup and Brownfields
2 East Main Street
Norristown, Pennsylvania 19401

12. **Severability.** The paragraphs of this Environmental Covenant shall be severable and should any part hereof be declared invalid or unenforceable, the remainder shall continue in full force and effect between the parties.

ACKNOWLEDGMENTS by Owner, Grantor, Grantee and the Holder, in the following form:

601 Spruce Street Investment Partners, LLC
Owner/Grantor/Grantee/Holder

Date: 6.20.21
2021
JC

By: 

Name: James Cassidy

Title: Owner

COMMONWEALTH OF PENNSYLVANIA :
: SS.
COUNTY OF :

On this, the 20 day of June, 2021 before me, the undersigned officer, personally appeared James Cassidy who acknowledged himself herself to be the owner of 601 Spruce Street Investment Partners, LLC, whose name is subscribed to this Environmental Covenant, and acknowledged that he executed same for the purposes therein contained.

IN WITNESS WHEREOF I have hereunto set my hand and notarial seal.


NOTARY PUBLIC

MY COMMISSION EXPIRES: July 26, 2023

Commonwealth of Pennsylvania - Notary Seal
Jamil Abdul-Malik, Notary Public
Philadelphia County
My Commission Expires July 26, 2023
Commission Number 1354018

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APPROVED, by Commonwealth of Pennsylvania,
Department of Environmental Protection

Date: 06-21-2021

By: [Signature]

Name: Ragesh R Patel

Title: Regional Manager
Env. cleanup & Brownfields Program

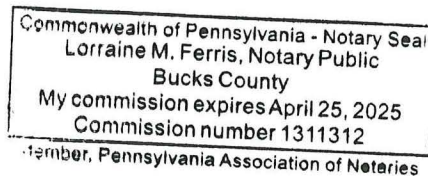
COMMONWEALTH OF PENNSYLVANIA :
: SS.
COUNTY OF :

On this, the 21st day of June, 2021, before me, the undersigned officer, personally appeared Ragesh R Patel who acknowledged himself/ herself to be the Regional Manager, Environmental Cleanup and Brownfields Program, of the Commonwealth of Pennsylvania, Department of Environmental Protection, Southeast Regional Office, whose name is subscribed to this Environmental Covenant, and acknowledged that s/he executed same for the purposes therein contained.

IN WITNESS WHEREOF I have hereunto set my hand and notarial seal.

[Signature]
NOTARY PUBLIC

MY COMMISSION EXPIRES:



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EXHIBIT A

Description of the Property

PREMISES "A"

ALL THAT CERTAIN tract of land situate in Perkasie Borough, Bucks County, Pennsylvania, bounded and described according to a survey dated May 6, 2021, as prepared by Cavanaugh's Surveying Services, as follows to wit:

BEGINNING at an iron pin in the West side line of South Seventh Street, 45 feet wide, said iron pin being 632.41 feet Northeast of an iron pin at the intersection of the North side line of Park Avenue 45 feet wide, and the West sideline of South Seventh Street;

thence North 45 degrees 09 minutes 52 Seconds West, the distance of 62.39 feet

thence North 49 degrees 38 minutes 59 Seconds East, the distance of 118.71 feet

thence North 54 degrees 18 minutes 59 Seconds East the distance of 178.00 feet

thence South 14 degrees 21 minutes 07 Seconds East the distance of 18.13 feet

thence South 44 degrees 53 minutes 03 Seconds West, the distance of 24.11 feet

thence South 43 degrees 05 minutes 52 Seconds West, the distance of 260.61 feet

to the point and place of BEGINNING.

Being known as PARCEL NO. 33-005-036-001

PREMISES "B"

ALL THAT CERTAIN tract of land, situate in Perkasie Borough, Bucks County, Pennsylvania, bounded and described according to a survey dated June 20, 1966, as prepared by Eckert and Malone, Surveyors, as follows to wit:

BEGINNING at a point, said point being the intersection of the Westerly side of South Seventh Street and the Northerly side of Park Avenue; thence along the Westerly side of South Seventh Street, North 56 degrees 15 minutes East, a distance of 594.41 feet to an iron pipe, the true place of BEGINNING;

thence North 33 degrees 45 minutes West 65.72 feet

thence North 61 degrees 17 minutes East 38.15 feet

thence South 33 degrees 45 minutes East 62.38 feet

thence South 56 degrees 15 minutes West 38.00 feet

to the point and place of BEGINNING.

Being known as PARCEL NO. 33-005-036-002

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Premises "C"

ALL THAT CERTAIN tract of land situate in Perkasio Borough, Bucks County, Pennsylvania, bounded and described according to a survey dated May 6, 2021, as prepared by Cavanaugh's Surveying Services, as follows to wit:

BEGINNING at a drill hole in a granite monument, a corner at the intersection of the Southeast right-of-way line of Seventh Street (45 feet wide, 33 feet between curbs) and the Northeast right-of-way line of Spruce Street (45 feet wide, 33 feet between curbs);

thence North 43 degrees 05 minutes 52 Seconds East 257.07 feet

thence South 13 degrees 41 minutes 25 Seconds East 98.06 feet

thence South 13 degrees 39 minutes 02 Seconds East 87.45 feet

thence South 49 degrees 39 minutes 34 Seconds East 166.36 feet

thence South 48 degrees 16 minutes 49 Seconds East 258.03 feet

thence South 51 degrees 47 minutes 26 Seconds West 148.08 feet

thence North 49 degrees 17 minutes 32 Seconds West 557.40 feet

to the place of BEGINNING.

Being known as PARCEL NO. 33-005-094

Premises "D"

ALL THAT CERTAIN tract of land situate in Perkasio Borough, Bucks County, Pennsylvania, bounded and described according to a survey dated May 6, 2021, as prepared by Cavanaugh's Surveying Services, as follows to wit:

BEGINNING at a concrete monument at the intersection of the Southerly side of Seventh Street and the Easterly side of Spruce Street; thence along the Southerly side of Seventh Street North 43 degrees 05 minutes 52 Seconds East 257.07 feet, thence South 13 degrees 41 minutes 25 seconds East 98.06 feet to an iron pipe, said iron pipe being the true place of beginning;

thence South 13 degrees 39 minutes 02 East 87.45 feet

thence South 49 degrees 39 minutes 34 Seconds East 166.36 feet
thence South 62 degrees 28 minutes 28 seconds West 196.36 feet
thence South 27 degrees 28 minutes 17 Seconds East 223.28 feet
thence South 66 degrees 14 minutes 58 Seconds East 238.80 feet
to the place of BEGINNING.

Being known as PARCEL NO. 33-005-107-001

EXHIBIT B

Property Parcel Map

