

COMPANY LEASE AGREEMENT

between

SUFFOLK COUNTY INDUSTRIAL LLC

and

TOWN OF ISLIP INDUSTRIAL DEVELOPMENT AGENCY

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Dated as of October 1, 2016

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Town of Islip Industrial Development Agency  
(Suffolk County Industrial LLC 2016 Facility)

THIS COMPANY LEASE AGREEMENT, dated as of October 1, 2016 (this “**Company Lease**”), is by and between SUFFOLK COUNTY INDUSTRIAL LLC, a limited liability company organized and existing under the laws of the State of New York, having an office at 10 Hub Drive, Suite 5, Melville, New York 11747 (the “**Company**”), and the TOWN OF ISLIP INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation of the State of New York, having its office at 40 Nassau Avenue, Islip, New York 11751 (the “**Agency**”).

## RECITALS

WHEREAS, Title 1 of Article 18-A of the General Municipal Law of the State of New York was duly enacted into law as Chapter 1030 of the Laws of 1969 of the State of New York; and

WHEREAS, the aforesaid act authorizes the creation of industrial development agencies for the Public Purposes of the State of New York (the “**State**”); and

WHEREAS, pursuant to and in accordance with the provisions of the aforesaid act, as amended, and Chapter 47 of the Laws of 1974 of the State, as amended (collectively, the “**Act**”), the Agency was created and is empowered to undertake the acquisition, renovation, equipping and leasing of the Facility defined below; and

WHEREAS, the Agency has agreed to assist in the acquisition of an approximately 31.64 acre parcel of land located at 1724 Fifth Avenue, Bay Shore, New York 11706 (the “**Land**”), the renovation of an approximately 396,100 square foot portion of an existing approximately 461,000 square foot building located thereon (excluding the 64,900 square foot portion of the building, consisting of 50,650 square feet of depot space identified as the “**Premises**” on the site plan map attached hereto as Exhibit B (the “**Depot Space**”), and 14,250 square feet of garage space identified as “Existing Garage 1 Story Building” in Exhibit B (the “**Garage Space**”; and together with the Depot Space, the “**Bimbo Premises**”), occupied by Bimbo Bakeries USA, Inc. (“**Bimbo**”), as further described in the respective Lease Agreements, each dated as of October 27, 2016 (the “**Depot Lease**” and the “**Garage Lease**”; collectively, the “**Bimbo Lease**”), by and between the Company and Bimbo, which Bimbo Lease also gives Bimbo exclusive rights to use the loading areas, parking areas, access drives, associated trucking aprons, walkways, and other outside areas located on the Bimbo Premises), together with the acquisition and installation of improvements, structures and other related facilities attached to the Land (the “**Improvements**”), and the acquisition and installation therein of certain equipment and personal property (the “**Equipment**”; and, together with the Land and the Improvements, the “**Facility**”), which Facility will be leased by the Agency to the Company, and used by the Company as an industrial complex for further sublease by the Company to future tenants not yet determined (collectively, the “**Sublessees**”); and

WHEREAS, the Company has agreed with the Agency, on behalf of the Agency and as the Agency’s agent, to renovate and equip the Facility in accordance with the Plans and Specifications; and

WHEREAS, the Company has agreed to lease the Land and the Improvements to the Agency pursuant to and in accordance with this Company Lease, and the Company has agreed to transfer to the Agency title to the Equipment pursuant to a Bill of Sale, dated the Closing Date (the “**Bill of Sale**”); and

WHEREAS, the Agency has agreed to sublease and lease the Facility to the Company pursuant to a certain Lease Agreement, dated as of October 1, 2016, but effective as of the date of execution (the “**Lease Agreement**”), by and between the Agency and the Company; and

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

The Company hereby leases the Land (described in Exhibit A attached hereto) and the Improvements to the Agency for the annual rent of \$1.00 (receipt of which is hereby acknowledged) for a term commencing on the Closing Date and terminating at 11:59 p.m. on November 30, 2032 (the “**Lease Term**”).

This Company Lease shall terminate on the earliest of (i) the expiration of the Lease Term, (ii) the termination of the Lease Agreement pursuant to Article X or Article XI thereof, and (iii) the date upon which the benefits afforded under that certain PILOT Agreement (as defined in the Lease Agreement) shall no longer be effective or the same shall be terminated.

The Company agrees to keep, perform and observe, from and after the date hereof, all of the terms, covenants, conditions, obligations and other provisions contained in the Lease Agreement. The Company agrees further that it shall indemnify, defend and hold harmless the Agency from and against all liabilities, damages, claims, demands, judgments, losses, costs, expenses, suits, actions or proceedings and attorneys’ fees arising out of or in connection with the Lease Agreement or this Company Lease and shall defend the Agency in any suit, action or proceeding, including appeals, for personal injury to, or death of, any person or persons, or for any loss of or damage to property of persons, or for other claims arising out of the acts or omissions of the Company or any of its officers, directors, agents or employees. The foregoing indemnitees shall include all expenses incurred by the Agency, including, without limitation, reasonable attorneys’ fees to enforce this Company Lease, the Lease Agreement or any other document to which the Company and the Agency are parties, and with respect to third party claims.

The Agency, for itself and its successors and assigns, hereby agrees to lease the Land and the Improvements from the Company on the terms and conditions contained herein.

The Company and the Agency acknowledge that the Agency will lease and sublease the Facility, as applicable, to the Company pursuant to the Lease Agreement. The Company and the Agency agree that while this Company Lease and the Lease Agreement remain in full force and effect, (i) there shall be no merger of the Company’s fee simple absolute estate in the Land and the Improvements and the Company’s subleasehold estate in the Land and Improvements created under the Lease Agreement; and (ii) the Agency shall continue to

have, use and enjoy the subleasehold estate in the Land and the Improvements created under this Company Lease.

This Company Lease shall not be recorded by either party hereto. The Agency shall cause a memorandum of lease with respect hereto to be recorded in the Suffolk County Clerk's office. The parties hereto shall take such additional actions and execute such additional documents as may be required by any lender providing financing for the Facility to record evidence of this Company Lease.

All notices, certificates and other communications hereunder shall be in writing and shall be either delivered personally or sent by certified mail, return receipt requested, or delivered by any national overnight express delivery service (in each case, postage or delivery charges paid by the party giving such communication) addressed as follows or to such other address as any party may specify in writing to the other:

To the Agency:

Town of Islip Industrial Development Agency  
40 Nassau Avenue  
Islip, New York 11751  
Attention: Executive Director

With a copy to:

Islip Town Attorney's Office  
40 Nassau Avenue  
Islip, New York 11751  
Attention: Pamela Greene, Esq.

The Company:

Suffolk County Industrial LLC  
10 Hub Drive, Suite 5  
Melville, New York 11747  
Attention: Tod Buckvar

With a copy to:

Law Offices of Andrew Presberg, P.C.  
100 Corporate Plaza, Suite B102  
Islandia, New York 11749  
Attention: Andrew Presberg, Esq.

Notice by mail shall be effective when delivered but if not yet delivered shall be deemed effective at 12:00 p.m. on the third Business Day after mailing with respect to certified mail and one Business Day after mailing with respect to overnight mail.

Copies of all notices given either to the Agency or the Company shall also be sent to the Lender, if such Lender shall have delivered written instructions to the Agency and the Company with the address of such Lender.

If a party hereto determines in its reasonable discretion that any further instruments or other actions are necessary or desirable to carry out the terms of this Company Lease, the other party shall, at the Company's sole cost and expense, execute and deliver all such instruments and take all such actions, without additional consideration.

Capitalized terms used in this Company Lease and not otherwise defined in this Company Lease shall have the meanings assigned thereto in Schedule A to the Lease Agreement.

This Company Lease may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

This Company Lease may not be amended, changed, modified or altered except in a writing executed by the parties hereto.

This Company Lease shall be governed exclusively by the applicable laws of the State of New York, without regard or reference to its conflict of laws principles.


This Company Lease and the conveyance made hereby shall be subject to the trust fund provisions of Section 13 of the Lien Law of the State.

(Remainder of Page Intentionally Left Blank- Signature Pages Follow)

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the day and year first above written.

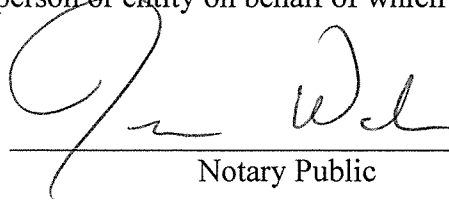
**SUFFOLK COUNTY INDUSTRIAL  
LLC  
By: FB 1724 LLC, its Managing Member**

By:   
Name: Mark Fischl  
Title: ~~Member~~ *Manager*

By:   
Name: Tod Buckvar  
Title: ~~Member~~ *Manager*

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

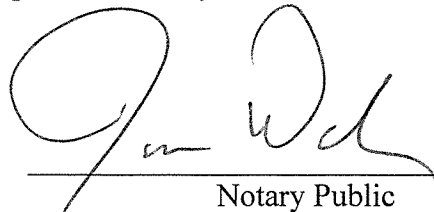
On the 27th day of October in the year 2016 before me, the undersigned, personally appeared **Mark Fischl** personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the within instrument, the individual, or the person or entity on behalf of which the individual acted, executed the instrument.

  
Notary Public

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


TERANCE V. WALSH  
Notary Public, State of New York  
Reg. No. 02WA6328824  
Qualified in Onondaga County  
Commission Expires 08/10/19

On the 27th day of October in the year 2016 before me, the undersigned, personally appeared **Tod Buckvar** 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 within instrument, the individual, or the person or entity on behalf of which the individual acted, executed the instrument.

  
Notary Public

Company Lease Agreement  
Signature Page 1 of 2

**TOWN OF ISLIP INDUSTRIAL  
DEVELOPMENT AGENCY**

By:   
Name: William G. Mannix  
Title: Executive Director

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

On the 26th day of October in the year 2016, before me, the undersigned, personally appeared **William G. Mannix**, 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 within instrument, the individual, or the person or entity on behalf of which the individual acted, executed the instrument.

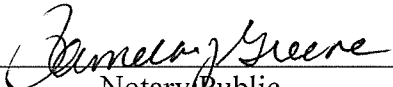
  
Notary Public  
PAMELA J. GREENE  
NOTARY PUBLIC, State of New York  
No. 02GR6053892  
Qualified in Suffolk County  
Commission Expires June 7, 2019

EXHIBIT A

Legal Description of Real Property





Title No. 3019-751972

**SCHEDULE "A"**

PARCEL I (FOR INFORMATION ONLY: DISTRICT 500 SECTION 182 BLOCK 1 LOT 41.1)

ALL THAT CERTAIN PLOT, PIECE, OR PARCEL OF LAND, SITUATE, LYING, AND BEING AT BRENTWOOD, TOWN OF ISLIP, COUNTY OF SUFFOLK AND STATE OF NEW YORK BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NEW WESTERLY SIDE OF FIFTH AVENUE (CR-13) DISTANT 186.05 FEET SOUTHERLY FROM THE SOUTHEASTERLY END OF A LINE THAT HAS A LENGTH OF 31.79 FEET, SAID LINE CONNECTS THE NEW WESTERLY SIDE OF FIFTH AVENUE (CR-13) WITH THE SOUTHERLY SIDE OF CANDLEWOOD ROAD;

RUNNING THENCE FROM SAID POINT OR PLACE OF BEGINNING ALONG THE WESTERLY SIDE OF FIFTH AVENUE, (CR-13) THE FOLLOWING TWO COURSES AND DISTANCES:

1. SOUTH 5° 55' 00" WEST 1078.49 FEET;
2. SOUTH 05° 54' 00" WEST 465.84 FEET TO THE NORTHEASTERLY END OF A TIE LINE, WHICH TIE LINE BEARS NORTH 51° 19' 30" EAST A LENGTH OF 42.11 FEET AND WHICH TIE LINE CONNECTS THE NORTHERLY SIDE OF SPENCE STREET WITH THE WESTERLY SIDE OF FIFTH AVENUE (CR-13);

THENCE ALONG SAID LAST MENTIONED TIE LINE, WHICH TIE LINE BEARS SOUTH 51° 19' 30" WEST 42.11 FEET TO THE NORTHERLY SIDE OF SPENCE STREET;

THENCE ALONG THE NORTHERLY SIDE OF SPENCE STREET NORTH 83° 15' 00" WEST 685.88 FEET TO THE EASTERLY LINE OF LAND NOW OR FORMERLY OF TRI MOLDED PLASTIC SC IDA;

THENCE ALONG SAID LAST MENTIONED LAND THE FOLLOWING 3 COURSES AND DISTANCES:

1. NORTH 05° 54' 00" EAST 238.00 FEET;
2. NORTH 83° 15' 00" WEST 53.65 FEET;
3. NORTH 05° 54' 00" EAST 416.23 FEET;

THENCE SOUTH 71° 09' 00" EAST 182.34 FEET;

THENCE NORTH 10° 02' 00" WEST 569.16 FEET;

THENCE NORTH 05° 55' 00" EAST 172.56 FEET;

THENCE NORTH 19° 16' 40" EAST 587.31 FEET TO THE SOUTHERLY SIDE OF CANDLEWOOD ROAD;

THENCE ALONG THE SOUTHERLY SIDE OF CANDLEWOOD ROAD THE FOLLOWING 2 COURSES AND DISTANCES:

CONTINUED...



TITLE NO. 3019-751972  
SCHEDULE "A" CONTINUED

1. SOUTH 72° 21' 00" EAST 297.03 FEET;
2. SOUTH 70° 51' 00" EAST 124.95 FEET;

THENCE SOUTH 05° 55' 00" WEST 205.46 FEET; AND

THENCE SOUTH 70° 51' 00" EAST 205.46 FEET TO THE WESTERLY SIDE OF FIFTH AVENUE (CR-13) AT THE POINT OR PLACE OF BEGINNING.

PARCEL II (FOR INFORMATION ONLY: DISTRICT 500 SECTION 181 BLOCK 3 LOT 49)

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING IN THE HAMLET OF BRENTWOOD, TOWN OF ISLIP, COUNTRY OF SUFFOLK, STATE OF NEW YORK, BEING PART OF PARCEL B AS SHOWN ON MAP OF EKORB INDUSTRIAL PARK, FILED IN THE OFFICE OF THE CLERK OF THE COUNTY OF SUFFOLK ON OCTOBER 13, 1966 AS MAP NO. 4736, WHICH PART OF SAID PARCEL B IS MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EASTERLY SIDE OF EKORB COURT DISTANT 420.96 FEET SOUTHWESTERLY WHEN MEASURED ALONG THE EASTERLY SIDE OF EKORB COURT, FROM THE EXTREME SOUTHERLY END OF AN ARC CONNECTING TO THE EASTERLY SIDE OF EKORB COURT AND THE SOUTHERLY SIDE OF CANDLEWOOD ROAD, AND FROM SAID POINT OF BEGINNING;

RUNNING THENCE SOUTH 71° 28' 00" EAST 419.12 FEET TO LAND NOW OR FORMERLY OF ENTEN CORPORATION;

THENCE SOUTH 19° 16' 40" WEST ALONG SAID LAST MENTIONED LAND 151.78 FEET TO LAND NOW OR FORMERLY OF ENTEN CORPORATION;

THENCE SOUTH 5° 55' 00" WEST ALONG SAID LAST MENTIONED LAND 18.85 FEET TO A "SUMP";

THENCE ALONG SAID "SUMP" THE FOLLOWING TWO COURSES AND DISTANCES:

- (1) NORTH 71° 28' WEST 81.27 FEET;
- (2) SOUTH 18° 32' WEST 25 FEET;

THENCE NORTH 71° 28' WEST 269.10 FEET TO THE NORTHEASTERLY SIDE OF CUL-DE-SAC OF EKORB COURT;

THENCE NORTHWESTERLY ALONG THE NORTHEASTERLY SIDE OF SAID CUL-DE-SAC AND ALONG THE ARC OF A CURVE BEARING TO THE LEFT, HAVING A RADIUS OF 75 FEET, A DISTANCE OF 59.13 FEET TO A POINT OF REVERSE CURVE;

THENCE NORTHERLY ALONG THE ARC OF A CURVE BEARING TO THE RIGHT HAVING A RADIUS OF 20 FEET A DISTANCE OF 30.36 FEET;

THENCE NORTH 18° 32' 00" EAST ALONG THE EASTERLY SIDE OF EKORB COURT 150.28 FEET TO THE POINT OR PLACE OF BEGINNING.

CONTINUED...



TITLE NO. 3019-751972  
SCHEDULE "A" CONTINUED

PERIMETER DESCRIPTION:

ALL THAT CERTAIN PLOT, PIECE, OR PARCEL OF LAND, SITUATE, LYING, AND BEING AT BRENTWOOD, TOWN OF ISLIP, COUNTY OF SUFFOLK AND STATE OF NEW YORK BEING BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NEW WESTERLY SIDE OF FIFTH AVENUE (CR-13) DISTANT 186.05 FEET SOUTHERLY FROM THE SOUTHEASTERLY END OF A LINE THAT HAS A LENGTH OF 31.79 FEET, SAID LINE CONNECTS THE NEW WESTERLY SIDE OF FIFTH AVENUE (CR-13) WITH THE SOUTHERLY SIDE OF CANDLEWOOD ROAD;

RUNNING THENCE ALONG THE WESTERLY SIDE OF FIFTH AVENUE, (CR-13) THE FOLLOWING TWO (2) COURSES AND DISTANCES:

1. SOUTH 5° 55' 00" WEST, 1,078.49 FEET AND;
2. SOUTH 05° 54' 00" WEST, 465.84 FEET;

THENCE SOUTH 51° 19' 30" WEST, 42.11 FEET TO THE NORTHERLY SIDE OF SPENCE STREET;

THENCE ALONG THE NORTHERLY SIDE OF SPENCE STREET NORTH 83° 15' 00" WEST, 685.88 FEET TO THE EASTERLY LINE OF LAND NOW OR FORMERLY OF TRI MOLDED PLASTIC SC IDA;

THENCE ALONG SAID LAST MENTIONED LAND THE FOLLOWING 3 COURSES AND DISTANCES:

1. NORTH 05° 54' 00" EAST, 238.00 FEET;
2. NORTH 83° 15' 00" WEST, 53.65 FEET;
3. NORTH 05° 54' 00" EAST, 416.23 FEET;

THENCE SOUTH 71° 09' 00" EAST, 182.34 FEET;

THENCE NORTH 10° 02' 00" WEST, 569.16 FEET;

THENCE ALONG SAID LAND NOW OR FORMERLY OF TOWN OF ISLIP (RECHARGE BASIN) THE FOLLOWING THREE (3) COURSES AND DISTANCES

1. NORTH 05° 55' 00" EAST, 153.71 FEET;
2. NORTH 71° 28' 00" WEST, 81.27 FEET;
3. SOUTH 18° 32' 00 WEST, 25.00 FEET;

THENCE NORTH 71° 28'00" WEST 269.10 FEET TO THE EASTERLY SIDE OF EKORB COURT;

THENCE ALONG THE EASTERLY SIDE OF EKORB COURT THE FOLLOWING THREE (3) COURSES AND DISTANCES:

1. WESTERLY ALONG THE ARC OF A CURVE BEARING TO THE LEFT, HAVING A RADIUS OF 75.00 FEET AND A LENGTH OF 59.13 FEET;
2. NORTHERLY ALONG THE ARC OF A CURVE BEARING TO THE RIGHT HAVING A RADIUS OF 20.00 FEET AND A LENGTH OF 30.36 FEET AND;
3. NORTH 18° 32' 00" EAST, 150.28 FEET;

CONTINUED...



TITLE NO. 3019-751972  
SCHEDULE "A" CONTINUED

THENCE SOUTH 71° 28' 00" EAST, 419.12 FEET;

THENCE NORTH 19° 16' 40" EAST 435.53 FEET TO THE SOUTHERLY SIDE OF CANDLEWOOD ROAD;

THENCE ALONG THE SOUTHERLY SIDE OF CANDLEWOOD ROAD THE FOLLOWING 2 COURSES AND DISTANCES:

1. SOUTH 72° 21' 00" EAST, 297.03 FEET;
2. SOUTH 70° 51' 00" EAST, 124.95 FEET;

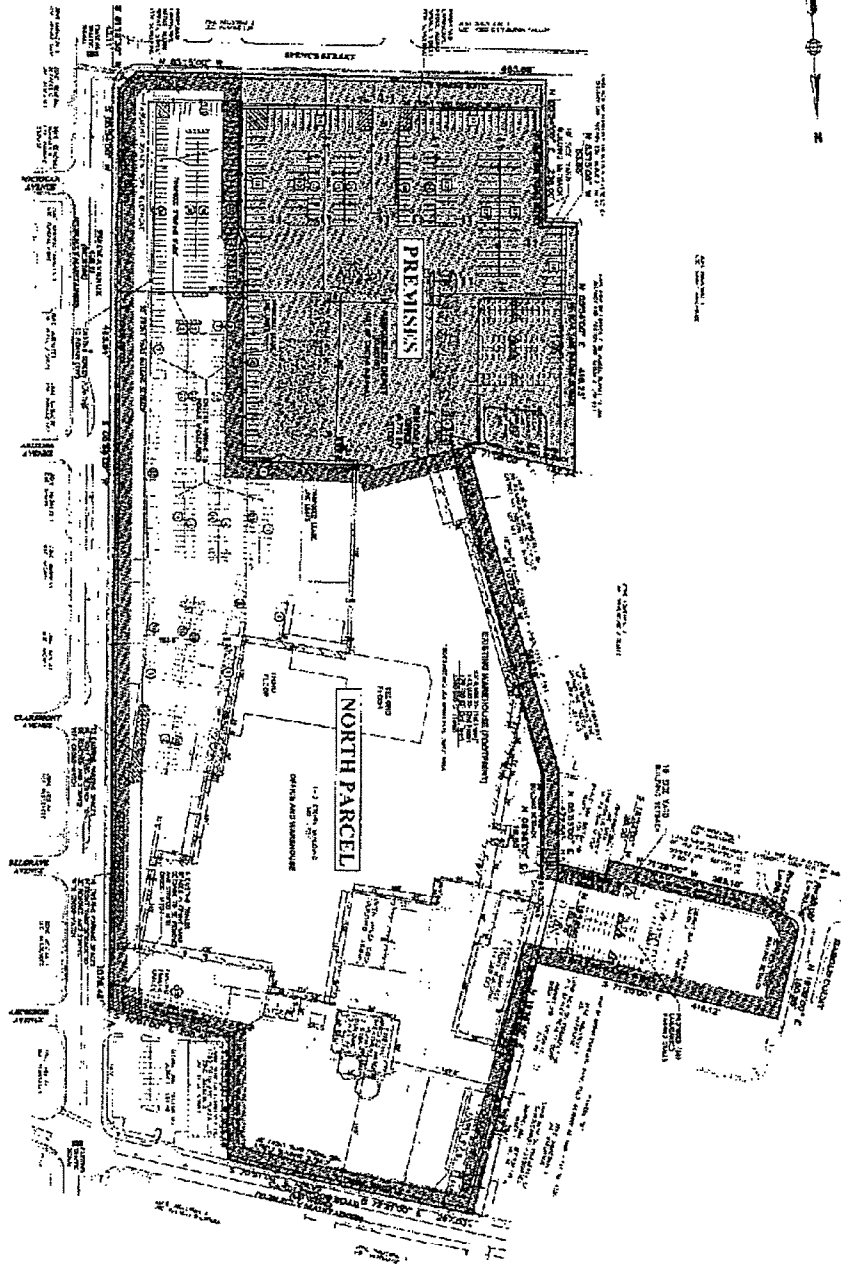
THENCE SOUTH 05° 55' 00" WEST, 205.46 FEET;

THENCE SOUTH 70° 51' 00" EAST, 205.46 FEET TO THE WESTERLY SIDE OF FIFTH AVENUE (CR-13) AND THE POINT OR PLACE OF BEGINNING.

**THE** policy to be issued under this report will insure the title to such buildings and improvements erected on the premises, which by law constitute real property.

**FOR CONVEYANCING ONLY: TOGETHER** with all the right, title and interest of the party of the first part, of in and to the land lying in the street in front of and adjoining said premises.

# EXHIBIT B



NO.	DESCRIPTION	DATE
1	PRELIMINARY	10/15/03
2	REVISED	11/10/03
3	REVISED	12/15/03
4	REVISED	01/20/04
5	REVISED	02/15/04
6	REVISED	03/10/04
7	REVISED	04/05/04
8	REVISED	05/01/04
9	REVISED	05/25/04
10	REVISED	06/15/04
11	REVISED	07/10/04
12	REVISED	08/05/04
13	REVISED	09/01/04
14	REVISED	09/25/04
15	REVISED	10/20/04
16	REVISED	11/15/04
17	REVISED	12/10/04
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94	REVISED	01/20/10
95	REVISED	02/15/10
96	REVISED	03/10/10
97	REVISED	04/05/10
98	REVISED	05/01/10
99	REVISED	05/25/10
100	REVISED	06/20/10

Overall Site Plan

Site Plan #: SP2014-072

C-2