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

**THIS INDENTURE** made this 16<sup>th</sup> day of September, 2011, between Owner(s) JLJ Management Co., a New York Partnership, having an office at 197 Trenor Drive, New Rochelle, County of Rockland, State of New York (the "Grantor"), and The People of the State of New York (the "Grantee."), acting through their Commissioner of the Department of Environmental Conservation (the "Commissioner", or "NYSDEC" or "Department" as the context requires) with its headquarters located at 625 Broadway, Albany, New York 12233.

**WHEREAS**, the Legislature of the State of New York has declared that it is in the public interest to encourage the remediation of abandoned and likely contaminated properties ("sites") that threaten the health and vitality of the communities they burden while at the same time ensuring the protection of public health and the environment; 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 operation, maintenance, and/or monitoring requirements and the 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 perform properly and be effective, or which requires groundwater use or soil management restrictions; and

**WHEREAS**, the Legislature of the State of New York has declared that 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 site remedial program or eliminate potential exposure pathways to hazardous waste or petroleum; and

**WHEREAS**, Grantor, is the owner of real property located at the address of 1-45 Orangetown Shopping Center in the Town of Orangetown, County of Rockland and State of New York, known and designated on the tax map of the County Clerk of Rockland as tax map parcel numbers: Section 74.10 Block 1 Lot 67, being the same as that property conveyed to Grantor by deed dated April 4, 1990 recorded in the Rockland County Clerk's Office in Book 0404 at Page 2555, the Environmental Easement area of which comprising approximately 1.3308 ± acres, and hereinafter more fully described in the Land Title Survey dated April 27, 2011 prepared by Joseph R. Link of Link Land Surveyors P.C., which will be attached to the Site Management Plan. The property description and survey (the "Controlled Property") is set forth in and attached hereto 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 for the Controlled Property until such time as this Environmental Easement is extinguished pursuant to ECL Article 71, Title 36; and

**NOW THEREFORE**, in consideration of the mutual covenants contained herein and the terms and conditions of Brownfield Cleanup Agreement Number: A3-0563-0906, Grantor conveys to Grantee a permanent Environmental Easement pursuant to ECL Article 71, Title 36 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 an effective and enforceable means of encouraging the reuse and redevelopment of this Controlled Property at a level that has been determined to be safe for a specific use while ensuring the performance of operation, maintenance, and/or monitoring requirements; and to ensure the restriction of future uses of the land that are inconsistent with the above-stated purpose.

2. Institutional and Engineering Controls. The controls and requirements listed in the Department approved Site Management Plan ("SMP") including any and all Department approved amendments to the SMP are incorporated into and made part of this Environmental Easement. These controls and requirements 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. (1) The Controlled Property may be used for:

**Commercial as described in 6 NYCRR Part 375-1.8(g)(2)(iii) and Industrial as described in 6 NYCRR Part 375-1.8(g)(2)(iv)**

(2) All Engineering Controls must be operated and maintained as specified in the Site Management Plan (SMP);

(3) All Engineering Controls must be inspected at a frequency and in a manner defined in the SMP.

(4) Groundwater and other environmental or public health monitoring must be performed as defined in the SMP;

(5) Data and information pertinent to Site Management of the Controlled Property must be reported at the frequency and in a manner defined in the SMP;

(6) All future activities on the property that will disturb remaining contaminated material must be conducted in accordance with the SMP;

(7) Monitoring to assess the performance and effectiveness of the remedy must be performed as defined in the SMP.

(8) Operation, maintenance, monitoring, inspection, and reporting of any mechanical or physical components of the remedy shall be performed as defined in the SMP.

(9) Access to the site must be provided to agents, employees or other representatives of the State of New York with reasonable prior notice to the property owner to assure compliance with the restrictions identified by this Environmental Easement.

B. The Controlled Property shall not be used for Residential or Restricted Residential purposes, and the above-stated engineering controls may not be discontinued without an amendment or extinguishment of this Environmental Easement.

C. The SMP describes obligations that the Grantor assumes on behalf of Grantor, its successors and assigns. The Grantor's assumption of the obligations contained in the SMP which may include sampling, monitoring, and/or operating a treatment system, and providing certified reports to the NYSDEC, is and remains a fundamental element of the Department's determination that the Controlled Property is safe for a specific use, but not all uses. The SMP may be modified in accordance with the Department's statutory and regulatory authority. The Grantor and all successors and assigns, assume the burden of complying with the SMP and obtaining an up-to-date version of the SMP from:

Site Control Section  
Division of Environmental Remediation  
NYSDEC  
625 Broadway  
Albany, New York 12233  
Phone: (518) 402-9553

D. Grantor must provide all persons who acquire any interest in the Controlled Property a true and complete copy of the SMP that the Department approves for the Controlled Property and all Department-approved amendments to that SMP.

E. Grantor covenants and agrees that until such time as the Environmental Easement is extinguished in accordance with the requirements of ECL Article 71, Title 36 of the ECL, the property deed and 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 to Title 36 of Article 71 of the Environmental Conservation Law.**

F. 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.

G. Grantor covenants and agrees that it shall annually, or such time as NYSDEC may allow, submit to NYSDEC a written statement by an expert the NYSDEC may find acceptable certifying under penalty of perjury, in such form and manner as the Department may require, that:

- (1) the inspection of the site to confirm the effectiveness of the institutional and engineering controls required by the remedial program was performed under the direction of the individual set forth at 6 NYCRR Part 375-1.8(h)(3).
- (2) the institutional controls and/or engineering controls employed at such site:
  - (i) are in-place;
  - (ii) are unchanged from the previous certification, or that any identified changes to the controls employed were approved by the NYSDEC and that all controls are in the Department-approved format; and
  - (iii) that nothing has occurred that would impair the ability of such control to protect the public health and environment;
- (3) the owner will continue to allow access to such real property to evaluate the continued maintenance of such controls;
- (4) nothing has occurred that would constitute a violation or failure to comply with any site management plan for such controls;
- (5) the report and all attachments were prepared under the direction of, and reviewed by, the party making the certification;
- (6) to the best of his/her knowledge and belief, the work and conclusions described in this certification are in accordance with the requirements of the site remedial program, and generally accepted engineering practices; and
- (7) the information presented is accurate and complete.

3. Right to Enter and Inspect. Grantee, its agents, employees, or other representatives of the State 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 reserves for itself, its assigns, representatives, and successors in interest with respect to the Property, all rights as fee owner of the 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 part or all of the underlying fee interest to the Controlled Property, 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. If any person violates this Environmental Easement, the Grantee may revoke the Certificate of Completion with respect to the Controlled Property.



the Commissioner of the New York State Department of Environmental Conservation, or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

10. Joint Obligation. If there are two or more parties identified as Grantor 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.

**Grantor: JLJ Management Co., a New York Partnership**

**DAFO Realty Corp., its General Partner**

By: Hilton Soniker

Print Name: HILTON SONIKER

Title: president Date: 9/2/11

**ODAF Realty Corp., its General Partner**

By: Hilton Soniker

Print Name: HILTON SONIKER

Title: president Date: 9/2/11

**Grantor's Acknowledgment**

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

On the 2nd day of September, in the year 2011, before me, the undersigned, personally appeared Hilton Souiker, 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.

Jerome Kamerman  
Notary Public - State of New York

JEROME KAMERMAN  
Notary Public, State of New York  
No. 02KA7146175  
Qualified in Westchester County  
Certificate Filed in New York County  
Commission Expires October 31, 2015

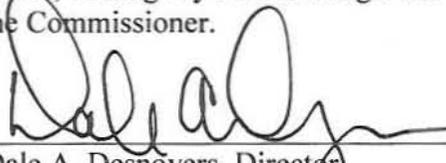
STATE OF NEW YORK )  
 ) ss:  
COUNTY OF NY )

On the 2nd day of September, in the year 2011, before me, the undersigned, personally appeared Hilton Souiker, 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.

Jerome Kamerman  
Notary Public - State of New York

JEROME KAMERMAN  
Notary Public, State of New York  
No. 02KA7146175  
Qualified in Westchester County  
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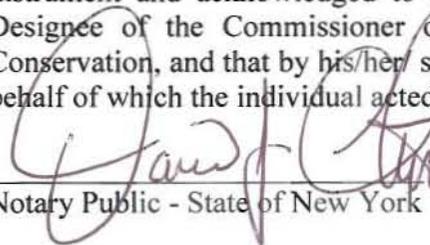
**THIS ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY THE PEOPLE OF THE STATE OF NEW YORK**, Acting By and Through the Department of Environmental Conservation as Designee of the Commissioner.

By:   
Dale A. Desnoyers, Director  
Division of Environmental Remediation

**Grantee's Acknowledgment**

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

On the 16<sup>th</sup> day of September, in the year 2011, before me, the undersigned, personally appeared Dale Desnoyers, 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 Designee of the 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" ENVIRONMENTAL EASEMENT**  
**PROPERTY DESCRIPTION**

1-45 ORANGETOWN SHOPPING CENTER  
ORANGETOWN, COUNTY OF ROCKLAND, NY  
SECTION: 74.10 BLOCK: 1 LOT: 67

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, WITH IMPROVEMENTS THEREON ERECTED, SITUATED AND LYING AND BEING IN THE TOWN OF ORANGETOWN, COUNTY OF ROCKLAND AND STATE OF NEW YORK.

BEGINNING AT A POINT ON THE WESTERLY SIDE OF OAK STREET WHERE THE SAME IS INTERSECTED BY THE DIVISION LINE BETWEEN LAND NOW OR FORMERLY JLJ MANAGEMENT ON THE SOUTH AND LAND NOW OR FORMERLY SEEBACH ON THE NORTH, SAID POINT ALSO BEING 430.52 FEET SOUTHERLY FROM THE SOUTHERLY END OF A CURVE HAVING A RADIUS OF 36.15 LENGTH OF 56.81 FEET CONNECTING THE SOUTHERLY SIDE OF ORANGEBURG ROAD AND THE WESTERLY SIDE OF OAK STREET.

THENCE RUNNING ALONG THE WESTERLY SIDE OF OAK STREET SOUTH 7°24'00" EAST 60.89 FEET TO THE DIVISION LINE BETWEEN JLJ MANAGEMENT AND LAND NOW OR FORMERLY HOFFMAN;

THENCE ALONG SAID DIVISION LINE SOUTH 82° 36'00" WEST 100.00 FEET;  
THENCE CONTINUING ALONG SAID DIVISION LINE AND ALONG THE DIVISION LINE BETWEEN JLJ MANAGEMENT AND LAND NOW OR FORMERLY FARINI SOUTH 7°24'00" EAST 88.00 FEET.

THENCE RUNNING THROUGH LANDS OF JLJ MANAGEMENT THE FOLLOWING FIVE (5) COURSES AND DISTANCES;

1. SOUTH 82° 36' 00" WEST 168.00 FEET;
2. NORTH 3° 04' 00" WEST 111.00 FEET;
3. SOUTH 87° 02' 00" WEST 56.00 FEET;
4. NORTH 2° 58' 00" WEST 182.10 FEET;
5. NORTH 87° 02' 00" EAST 176.89 FEET TO THE WESTERLY SIDE OF LAND NOW OR FORMERLY UCKER

THENCE RUNNING ALONG LAND OF UCKER AND CONTINUING ALONG LAND OF SEEBACH SOUTH 7° 24' 00" WEST 134.00 FEET AND NORTH 82° 36' 00": EAST 125.00 FEET TO THE POINT AND PLACE OF BEGINNING.

CONTAINING 1.3308 ACRES / 57,970 SQ. FT.

**SURVEY**

