

ENVIRONMENTAL EASEMENT

THIS INDENTURE made this 5th day of December, 2006, between Ludlow Heights Housing Development Fund Corp., a New York not-for-profit corporation, 185 Riverdale CIDG LLC, 185 Riverdale Avenue LLC, and 185 Riverdale Managers LLC, limited liability companies, all having a business address at One Odell Plaza, Yonkers, New York 10701 (collectively the "Grantor" or "Grantors") and The People of the State of New York (the "Grantee"), acting through the 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 ("brownfield 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 brownfield cleanup program that includes the use of environmental easements as an enforceable means of ensuring the performance of operation, maintenance, and/or monitoring requirements and of ensuring the potential restriction of future uses of the land, when a brownfield cleanup 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 brownfield site remedial program or eliminate potential exposure pathways to hazardous waste or petroleum; and

WHEREAS, Grantor Ludlow Heights Housing Development Fund Corp. is the title owner, with 185 Riverdale CIDG LLC, 185 Riverdale Avenue LLC, and 185 Riverdale Managers LLC as beneficial owners, of real property located at 185-187 Riverdale Avenue in the City of Yonkers, Westchester County, New York, latitude 40.9263N and longitude 73.9009W, known and designated on the tax map of the City of Yonkers as Tax Map Section 1, Block 176, Lots 9, 10, 13, 14 and 15, being the same property conveyed to Grantor Ludlow Heights Housing Development Fund Corp by deed on August 24, 2005 and recorded in the Land Records of the Westchester County Clerk as control number 453560158, comprised of approximately .85 acres, and hereinafter more fully described in Schedule A attached hereto and made a part hereof (the "Controlled Property"); and

WHEREAS, the Commissioner does hereby acknowledge that 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 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 covenants and mutual promises contained herein and the terms and conditions of Brownfield Site Cleanup Agreement, Index Number W3-1039-05-01 for Site Number C360074, Grantor grants, conveys and releases to Grantee a permanent 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 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 potential restriction of future uses of the land that are inconsistent with the above-stated purpose.

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 residential use so long as the following long term institutional and engineering controls are employed:

(i) any soil on the property must be covered by a barrier layer approved by NYSDEC such as concrete, asphalt, structures, or a minimum two (2) foot soil cover underlain by a demarcation barrier (e.g. geotextile) and this barrier layer must be maintained;

(ii) the use of groundwater underlying the property is prohibited without treatment to render it safe for use as drinking water or for industrial purposes and the user must first notify and obtain written approval from NYSDEC and the New York State Department of Health; and

(iii) any intrusive activities which will cause a disturbance of the soil beneath the demarcation barrier must be conducted in accordance with the approved “Site Management Plan.”

B. The Controlled Property may not be used for a higher level of use, such as unrestricted residential, 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, 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.

C. 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.

D. Grantor covenants and agrees that it shall annually, or such time period as NYSDEC may allow, submit to NYSDEC a written statement by an expert the NYSDEC may find acceptable certifying under penalty of perjury that the controls employed at the Controlled Property are unchanged from the previous certification or that any changes to the controls employed at the Controlled Property were approved by the NYSDEC, and that nothing has occurred that would impair the ability of such control to protect the public health and environment or constitute a violation or failure to comply with any Site Management Plan for such controls and giving access to such Controlled Property to evaluate continued maintenance of such controls.

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 Controlled Property, including:

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

2. 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. If any person intentionally violates this environmental easement, the Grantee may revoke the Certificate of Completion provided under ECL Article 27, Title 14 with respect to the Controlled Property.

C. 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, and to require compliance with the terms of this Environmental Easement.

D. 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 (other than the annual certification) or approval from the State is required, the Party providing such notice or seeking such approval shall identify the Controlled Property by referencing its County tax map number or the Liber and Page or computerized system tracking/ identification number and address correspondence to:

Division of Environmental Enforcement
Office of General Counsel
New York State Department of Environmental Conservation
625 Broadway
Albany New York 12233-5500

Such correspondence shall be delivered by hand, or by 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 instrument, within thirty (30) days of execution of this instrument by the Commissioner or her/his authorized representative in 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.

8. Amendment. This environmental easement may be amended only by an amendment

185 Riverdale CIDG LLC

By: [Signature]

Title: Managing Member

Date: 12/6/06

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

On the 6 day of Dec., in the year 2006 before me, the undersigned, personally appeared [Signature], 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.

Peggy A. Michael
Notary Public - State of New York

PEGGY A. MICHAEL
Notary Public, State of New York
No. 4874242
Qualified in Westchester County
Commission Expires Nov. 3, 2010

185 Riverdale Ave LLC

By: [Signature]

Title: Managing Member

Date: 12/6/06

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

On the 6 day of Dec., in the year 2006 before me, the undersigned, personally appeared [Signature], 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.

Peggy A. Michael
Notary Public - State of New York

PEGGY A. MICHAEL
Notary Public, State of New York
No. 4874242
Qualified in Westchester County
Commission Expires Nov. 3, 2010

185 Riverdale Managers LLC

By: [Signature]
Title: Managing Member
Date: 12/5/06

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

On the 5 day of Dec, in the year 2006 before me, the undersigned, personally appeared [Signature], 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.

[Signature]
Notary Public - State of New York

PEGGY A. MICHAES
Notary Public, State of New York
No. 4874242
Qualified in Westchester County
Commission Expires Nov. 9: 2007

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

By: [Signature]
Denise M. Sheehan, Commissioner

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

On the 14th day of Dec, in the year 2006 before me, the undersigned, personally appeared DENISE M SHEEHAN, 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.

[Signature]
Notary Public - State of New York

MICHAEL J. DEREVLANY
Notary Public, State of New York
No. 02DE507784
Qualified in Westchester County
Commission Expires May 12, 2007

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING IN THE CITY OF YONKERS, COUNTY OF WESTCHESTER AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WESTERLY SIDE OF RIVERDALE AVENUE, WHICH POINT IS DISTANT 104.40 FEET SOUTHERLY FROM THE INTERSECTION OF THE SOUTHERLY SIDE OF HIGHLAND AVENUE WITH THE WESTERLY SIDE OF RIVERDALE AVENUE;

RUNNING SOUTHERLY ALONG THE WESTERLY SIDE OF RIVERDALE AVENUE A DISTANCE OF 210.71 FEET;

THENCE WESTERLY ON A LINE FORMING AN INTERIOR ANGLE OF 75 DEGREES 38 MINUTES (ACTUAL) (RECORD 75 DEGREES 37 MINUTES) WITH SAID WESTERLY SIDE OF RIVERDALE AVENUE, PARALLEL WITH THE NORTHERLY SIDE OF DOWNING STREET AND ALONG THE NORTHERLY LINE OF LAND FORMERLY OF LYNCH AND LARKIN 212 FEET 2 INCHES TO THE SOUTHEAST CORNER OF LAND FORMERLY OF O'NEIL;

THENCE NORTHERLY ON A LINE FORMING AN INTERIOR ANGLE AT 89 DEGREES 45 MINUTES 00 SECONDS WITH THE LAST DESCRIBED LINE PARALLEL WITH THE EASTERLY SIDE OF HAWTHORNE AVENUE AND ALONG THE EASTERLY LINE OF SAID LAND FORMERLY OF O'NEIL 178.83 FEET (10 INCHES) TO THE SOUTHWEST CORNER OF LAND NOW OR FORMERLY BELONGING TO THE CITY STEAM LAUNDRY;

THENCE EASTERLY ON A COURSE FORMING AN INTERIOR ANGLE OF 90 DEGREES 145 MINUTES 00 SECONDS (RECORD) 90 DEGREES 15 MINUTES 00 SECONDS (ACTUAL) WITH THE LAST MENTIONED COURSE A DISTANCE OF 35.00 FEET TO A POINT;

THENCE NORTHERLY ON A COURSE FORMING AN INTERIOR ANGLE OF 269 DEGREES 45 MINUTES 00 SECONDS WITH THE LAST MENTIONED COURSE A DISTANCE OF 25.28 FEET TO A POINT;

THENCE EASTERLY ON A COURSE FORMING AN INTERIOR ANGLE OF 90 DEGREES 15 MINUTES 00 SECONDS WITH THE LAST MENTIONED COURSE A DISTANCE OF 123.94 FEET TO THE WESTERLY SIDE OF RIVERDALE AVENUE AND THE POINT OR PLACE OF BEGINNING.