

RECEIVED

NOV 08 2006

ENVIRONMENTAL EASEMENT

BROOME COUNTY CLERK

THIS INDENTURE made this 3rd day of October, 2006, between Broome County Industrial Development Agency, having a local office at P.O. Box 1510, Binghamton, New York 13902-1510 (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 ("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 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 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 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 is the owner of real property located in the Village of Johnson City, Broome County, New York, known and designated on the tax map of the County of Broome as tax map parcel number 143, section 58, block 1, lot 2.21, being a portion of that property conveyed to Grantor by deed on 17 August 2004 and recorded in the Land Records of the County Clerk at Page 517, Liber 2079 of Deeds, comprised of approximately 10.3673 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.

NOW, THEREFORE, in consideration of the covenants and mutual promises contained herein and the terms and conditions of Brownfield Cleanup Agreement Index Number B7-0654-04-

01 for Site #C704041, 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:

Commercial and Industrial

uses as long as the following long-term engineering controls are employed:

- (i) Existing and future paved areas are intact and well maintained.
- (ii) NYSDEC-approved demarcation layer materials are maintained beneath pavement sub-base material.
- (iii) NYSDEC-approved demarcation layer materials are maintained beneath two feet of clean fill in existing and future landscaped areas.
- (iv) The sub-slab depressurization system within the office portion of the building is operated, maintained and monitored in accordance with the Operation, Maintenance and Monitoring Plan ("OM&M Plan") for the system, including the OM&M Plan provisions for discontinuing use of the system.
- (v) The practices outlined in the site's Soil Management Plan are followed for activities that disturb site soils beneath the demarcation layer.
- (vi) No use of site groundwater without prior approval by NYSDEC.

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

- 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 other time 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:
- 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. If any person intentionally violates this Environmental Easement, the Grantee may revoke the Certificate of Completion provided under ECL Article 27, Title 14, or the Satisfactory Completion of Project provided under ECL Article 56, Title 5 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 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 tracking system/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 by 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 executed by the Commissioner of the New York State Department of Environmental Conservation and filed with the office of the recording officer for the county or counties where the Property is situate in the manner prescribed by Article 9 of the Real Property Law.

9. Extinguishment. This Environmental Easement may be extinguished only by a release by the Commissioner of the New York State Department of Environmental Conservation 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.

BROOME COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

Date: October 3, 2006

By:

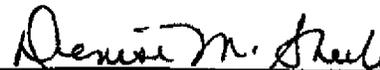


Richard D'Attilio, Executive Director

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

Date: October 20, 2006

By:



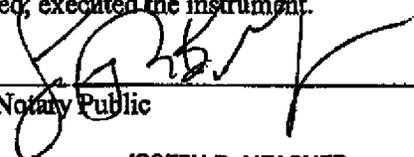
Denise M. Sheehan, Commissioner

STATE OF NEW YORK :

: ss.

COUNTY OF BROOME:

On October 3, 2006, before me, the undersigned, personally appeared RICHARD D'ATTILIO, 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 instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.


Notary Public

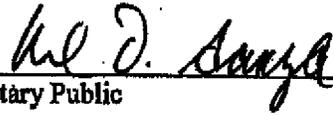
JOSEPH B. MEAGHER
Notary Public, State of New York
Broome County 02ME4974837
Commission Expires Nov. 28, 20 06

STATE OF NEW YORK :

: ss.

COUNTY OF ALBANY :

On October 20, 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 whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.


Notary Public

MARK D. SANZA
Notary Public, State of New York
No. 02SA8010701
Qualified in Albany County
Commission Expires July 20, 2010

Schedule ABROOME COUNTY INDUSTRIAL
DEVELOPMENT AGENCY/GANNETT SATELLITE
INFORMATION NETWORK, INC.SURVEYOR'S DESCRIPTION

All that certain lot, piece, or parcel of land situates, being a portion of the property acquired by Broome County Industrial Development Agency by Deed Recorded in the Broome County Clerk's Office in Liber 2079 at Page 517 on August 17, 2004, lying and being Southerly of C.F.J. Boulevard, bounded and described as follows:

Beginning at a found ½ inch rebar with Hulbert cap on the existing Southerly Street Boundary of C.F.J. Boulevard at its intersection with the municipal line between the Village of Johnson City on the West and the Town of Dickinson on the East;

RUNNING THENCE from said Point of Beginning, South 10 degrees 31 minutes 20 seconds West, along the last mentioned municipal line, passing through a found ¾ inch pipe, a distance of 553.28 feet to a found ¾ inch twisted steel rod;

thence South 79 degrees 28 minutes 40 seconds East, into the Town of Dickinson, a distance of 120.00 feet to a point on the Westerly Street Boundary of Market Street;

thence South 10 degrees 31 minutes 20 seconds West, along the last mentioned Street Boundary, a distance of 28.00 feet to a found 5/8 inch rebar at its intersection with said property owned by Broome County Industrial Development Agency on the North;

thence North 79 degrees 28 minutes 40 seconds West, along the last mentioned property line, a distance of 120.00 feet to a ½ inch rebar with Hulbert cap;

thence South 10 degrees 31 minutes 20 seconds West, continuing along the last mentioned municipal line, passing through a ¾ inch twisted steel rod, a distance of 376.81 feet to a point at its intersection with the division line between said property owned by Broome County Industrial Development Agency on the Northeast and the property now or formerly owned by Stella Ireland Road Associates, LLC on the Southwest;

thence North 55 degrees 20 minutes 55 seconds West, along the last mentioned division line, a distance of 742.75 feet to a point at its intersection with the division line between said property owned by Broome County Industrial Development Agency on the Southeast and the property now or formerly owned by Village of Johnson City on the Northwest, said point being the Southeasterly street corner of Pavilion Street;

thence along the last mentioned division line and along the Southeasterly Street Boundary of said Pavilion Street, the following two (2) courses and distances:

- 1) North 34 degrees 51 minutes 37 seconds East, a distance of 50.92 feet to a point;
- 2) North 15 degrees 07 minutes 05 seconds West, a distance of 19.81 feet to a point at its intersection with the division line between said property owned by Broome County Industrial Development Agency on the East and another property now or formerly owned by Village of Johnson City on the West said point being the Southeasterly street corner of Gannett Drive;

thence along the last mentioned division line and along the Easterly Street Boundary of Gannett Drive, the following five (5) courses and distances:

- 1) North 15 degrees 07 minutes 05 seconds West, a distance of 29.67 feet to a point;
- 2) along a curve to the right with a radius of 215.00 feet, an arc length of 86.31 feet and a chord bearing of North 31 degrees 29 minutes 03 seconds East, a distance of 85.73 feet to a point;
- 3) North 42 degrees 59 minutes 03 seconds East, a distance of 543.92 feet to a point;

- 4) North 70 degrees 32 minutes 31 seconds East, a distance of 17.08 feet to a point;
- 5) North 86 degrees 55 minutes 04 seconds East, a distance of 39.03 feet to a point on said Southerly Street Boundary C.F.J. Boulevard;

thence along the last mentioned Street Boundary, the following two (2) courses and distances:

- 1) South 72 degrees 46 minutes 17 seconds East, a distance of 277.54 feet to a point;
- 2) along a curve to the right with a radius of 50.00 feet, an arc length of 49.76 feet and a chord bearing of North 45 degrees 23 minutes 24 seconds East, a distance of 47.74 feet to the POINT OR PLACE OF BEGINNING.
Containing 451,602 square feet or 10.3673 acres, more or less.

Subject to a New York State Electric & Gas Corporation easement along the East property line, and an Access Easement to Market Street.

