

LYSANDER
3136

ENVIRONMENTAL EASEMENT

THIS INDENTURE, made this 20th day of September, 2006, between **CL DEVELOPMENT OF BALDWINSVILLE, LLC** having an office at 30 Oswego Street, Baldwinsville, 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 ("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 property 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 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 Town of Lysander, Village of Baldwinsville, Onondaga County, New York known and designated on the tax map of the Town of Lysander as part of the following tax map parcel numbers: 006.-04-26.0; 006.-04-27.0; 006.-04-25.1 and being part of the same premises conveyed to the Grantor by three separate deeds, one from Gary H. Bell to CL Development of Baldwinsville, LLC dated September 2, 2003 and recorded in the Onondaga County Clerk's Office on September 23, 2003 in Book 4798 of Deeds at Page 766 &c; another from Richard Tetrault to CL Development of Baldwinsville, LLC by Deed dated September 2, 2003 and recorded in the Onondaga County Clerk's Office on October 29, 2003 in Book 4805 of Deeds at Page 180 &c; and a third from Jean G. Girard and Nancy M. Girard to CL Development of Baldwinsville, LLC by Deed dated August 22, 2003 and recorded in the Onondaga County Clerk's Office on September 23, 2003 in Book 4798 of Deeds at Page 729 &c; said premises subject to this easement herein being more fully described in Schedule "A" hereto and made a part hereof ("Controlled Property"); and;

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TO
MARTIN AND BARNELL

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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 Cleanup Agreement Number B7-0652-04-01, 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/industrial use as long as the following long-term engineering controls are employed:

Engineering Controls:

Continuous operation and maintenance of a sub-slab depressurization (SSD) system for all occupied structures on the site. This system shall be installed per design specifications of a qualified contractor to collect soil gas vapors from beneath site structure(s) and vent them above the rooftop.

Institutional Controls:

Groundwater: No groundwater from this site shall be used for human consumption. Pumping and discharge of groundwater to Waters of the State shall not be allowed without appropriate treatment and approval of the governing State, County, or municipal authority.

Site Soils: Disturbance, excavation, or removal of site soils from a depth greater than one foot shall be governed by the Soil Management Plan contained in the final engineering report approved by NYSDEC for this controlled property.

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 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 of Title 36 to 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 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 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;

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, 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 and 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 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 by Certified mail and 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 and 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 situated 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.

CL Development of Baldwinsville, LLC

By: [Signature]

Title: Member

Date: 9-18-06

CL Development of Baldwinsville, LLC

By: [Signature]

Title: Member

Date: 9/20/06

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

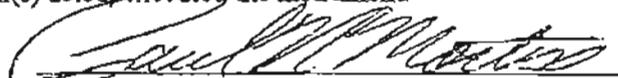
By: [Signature]

Denise M. Sheehan, Commissioner

Grantor's Acknowledgment

STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss:

On the 18th day of September in the year 2006, before me, the undersigned personally appeared RICHARD D HOVEY personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), that by his/her/their signature(s) on the instrument, the individual(s), or the person upon whose behalf of which the individual(s) acted, executed the instrument.

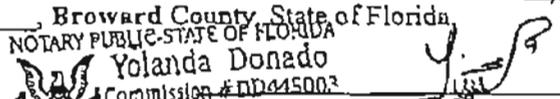

Notary Public - State of New York

Grantor's Acknowledgment

STATE OF FLORIDA)
COUNTY OF BROWARD) ss:

PAUL N. MARTIN
Notary Public, State of New York
Qualified in Onondaga Co., No. 4736141
My Commission Expires 12/31/09

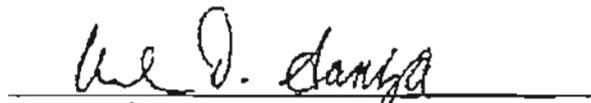
On the 20 day of September, in the year 2006, before me, the undersigned personally appeared JAMES J. ORLANDO personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies); that by his/her/their signature(s) on the instrument, the individual(s), or the person upon whose behalf of which the individual(s) acted, executed the instrument and that such individual made such appearance before the undersigned in the City of Parkland, Broward County, State of Florida.

NOTARY PUBLIC-STATE OF FLORIDA

Yolanda Donado
Commission # DD045003
Expires: Notary Public - State of Florida

Grantee's Acknowledgment Bonded Thru Atlantic Bonding Co., Inc.

STATE OF NEW YORK)
COUNTY OF ALBANY) ss:

On the 17th day of October in the year 2006 before me, the undersigned, personally appeared Denise N. 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 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 whose behalf of which the individual acted, executed the instrument.


Notary Public - State of New York

MARK D. SANZA
Notary Public, State of New York
No. 02SA6010701
Qualified in Albany County
Commission Expires July 20, 2010

SCHEDULE A

PARCEL I

ALL THAT TRACT OR PARCEL OF LAND, situate in the Village of Baldwinsville, Town of Lysander, County of Onondaga and State of New York, being part of Lot 86 in said Town and Village and being more particularly described as follows:

BEGINNING at the intersection of the southerly line of New York State Route 31 with the westerly line of lands now or formerly owned by Baldwin Service Corporation as recorded in the Onondaga County Clerk's Office in Liber of Deeds #4383, Page #323; thence South $07^{\circ} 14' 12''$ West along the westerly line of said Baldwin Service Corporation property, a distance of 358.46 feet to a point for corner; thence North $82^{\circ} 45' 48''$ West, a distance of 111.61 feet to a point for corner; thence North $07^{\circ} 14' 12''$ West, a distance of 79.25 feet to the beginning of a curve to the left having a central angle of $25^{\circ} 13' 57''$, a radius of 180.00 feet and a chord bearing and distance of North $05^{\circ} 22' 48''$ West, 78.63 feet; thence along said curve to the left an arc distance of 79.27 feet to a point of tangency; thence North $17^{\circ} 59' 46''$ East, a distance of 124.93 feet to a point in the southerly line of New York State Route 31; thence North $71^{\circ} 03' 58''$ East, along the southerly line of said New York State Route 31, a distance of 202.84 feet to the point of beginning.

PARCEL II

ALL THAT TRACT OR PARCEL OF LAND, situate in the Village of Baldwinsville, Town of Lysander, County of Onondaga and State of New York, being part of Lot 86 in said Town and Village and being more particularly described as follows:

BEGINNING at the intersection of the southerly line of New York State Route 31 with the westerly line of lands now or formerly owned by Robert C. Lipp as recorded in the Onondaga County Clerk's Office in Liber of Deeds #4046, Page #283; thence North $71^{\circ} 56' 12''$ East along the southerly line of said New York State Route 31, a distance of 78.69 feet to a point for corner; thence South $17^{\circ} 59' 46''$ East, a distance of 124.39 feet to the beginning of a curve to the right having a central angle of $25^{\circ} 13' 56''$, a radius of 120.00 feet and a chord bearing and distance of South $05^{\circ} 22' 48''$ East, 52.42 feet; thence along said curve to the right an arc distance of 52.85 feet to a point of tangency; thence South $07^{\circ} 14' 12''$ West, a distance of 79.68 feet to a point for corner; thence North $82^{\circ} 45' 48''$ West, a distance of 110.39 feet to a point for corner in the easterly line of lands now or formerly owned by Lavoie Revocable Trust, as recorded in the Onondaga County Clerk's Office in Liber of Deeds #4356, Page #184; thence North $07^{\circ} 14' 12''$ East along the easterly line of said Lavoie property and the easterly line of said Lipp property, a distance of 100.42 feet to a point for corner; thence North $05^{\circ} 45' 48''$ West along the easterly line of said Lipp property, a distance of 112.17 feet to the point of beginning.

PARCEL III

ALL THAT TRACT OR PARCEL OF LAND, situate in the Village of Baldwinsville, County of Onondaga and State of New York, and being part of Lamp Post Court Subdivision as filed in the Onondaga County Clerk's Office, Map #10435 and being more particularly described as follows:

BEGINNING at a point for corner at the intersection of the southerly line of New York State Route 31 with the easterly line of Festa Fairway Lane, said point being South $71^{\circ} 03' 58''$ West, 218.52 feet and South $17^{\circ} 59' 46''$ East, 33.00 feet from the intersection of said centerline of New York State Route 31

with the easterly line of said Lamp Post Court Subdivision; thence South $17^{\circ} 59' 46''$ East along the easterly line of said Festa Fairway Lane, a distance of 124.93 feet to the beginning of a curve to the right, having a central angle of $25^{\circ} 13' 57''$, a radius of 180.00 feet and a chord bearing and distance of South $05^{\circ} 22' 48''$ East, 78.63 feet; thence along said curve to the right and the easterly line of said Festa Fairway Lane, an arc distance of 79.27 feet to a point of tangency; thence South $07^{\circ} 14' 12''$ West, a distance of 79.25 feet to a point for corner; thence North $82^{\circ} 45' 48''$ West, a distance of 60.00 feet to a point for corner in the westerly line of Festa Fairway Lane; thence North $07^{\circ} 14' 12''$ East along the westerly line of said Festa Fairway Lane, a distance of 79.68 feet to the beginning of a curve to the left, having a central angle of $25^{\circ} 13' 57''$, a radius of 120.00 feet and a chord bearing and distance of North $05^{\circ} 22' 48''$ West, 52.42 feet; thence along said curve to the left and the westerly line of said Festa Fairway Lane, an arc distance of 52.85 feet to a point of tangency; thence North $17^{\circ} 59' 46''$ West, along the westerly line of said Festa Fairway Lane, a distance of 124.39 feet to a point for corner in the southerly line of said New York State Route 31; thence North $71^{\circ} 29' 06''$ East along the southerly line of New York State Route 31, a distance of 60.00 feet to the point of beginning.