

TOOHER & BARONE, LLP

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313 HAMILTON STREET
ALBANY, N.Y. 12210
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Meave M. Toohar
John L. Barone

William F. Demarest III

OFFICE OF
GENERAL COUNSEL

OF COUNSEL

Helene G. Goldberger

November 2, 2016

VIA FEDERAL EXPRESS

Bradford D. Burns, Senior Attorney
NYS Dept. of Environmental Conservation
Office of General Counsel
625 Broadway, 14th Floor
Albany, NY 12233-1500

**Re: ERP Site – B00188
Site Address: 7-11 Johnes Street (a/k/a 9 Johnes Street)
City of Newburgh, New York
Our File No. 13816**

Dear Mr. Burns:

Enclosed please find a copy of the recorded Environmental Easement, the Notice to Municipality, and the proof of delivery of the Notice of Municipality for the above-referenced Environmental Easement. These documents should complete the Easement for this property. Please let me know if you have any questions.

Thank you for your assistance.

Sincerely,


Lindsay T. Perkins
Office Manager

Enclosures

cc: (Letter Only via First Class Mail)
Michelle Kelson, City of Newburgh
William Bennett, DEC



ORANGE COUNTY – STATE OF NEW YORK
 ANN G. RABBITT, COUNTY CLERK
 255 MAIN STREET
 GOSHEN, NEW YORK 10924

COUNTY CLERK'S RECORDING PAGE
 THIS PAGE IS PART OF THE DOCUMENT – DO NOT DETACH



BOOK/PAGE: 14119 / 1990
 INSTRUMENT #: 20160066331

Receipt#: 2208085
 Clerk: CH
 Rec Date: 10/06/2016 03:01:39 PM
 Doc Grp: D
 Descrip: RT WY
 Num Pgs: 10
 Rec'd Frm: HARDENBURGH ABSTRACT CORP (28)

Party1: NEWBURGH CITY
 Party2: NYS DEPT OF ENVIRONMENTAL
 CONSERVATION
 Town: NEWBURGH (CITY)
 14-1-46

Recording:	
Recording Fee	70.00
Cultural Ed	14.25
Records Management - Coun	1.00
Records Management - Stat	4.75
TP584	5.00
Sub Total:	<u>95.00</u>
Transfer Tax	
Transfer Tax - State	0.00
Sub Total:	<u>0.00</u>
Total:	<u>95.00</u>
**** NOTICE: THIS IS NOT A BILL ****	

***** Transfer Tax *****	
Transfer Tax #: 2154	
Transfer Tax	
Consideration: 0.00	
Total:	<u>0.00</u>

Payment Type: Check
 Cash
 Charge
 No Fee

Comment: _____

STATE OF NEW YORK (COUNTY OF ORANGE) SS:
 I, ANN G. RABBITT, COUNTY CLERK AND CLERK OF THE
 SUPREME AND COUNTY COURTS, ORANGE COUNTY, DO
 HEREBY CERTIFY THAT I HAVE COMPARED THIS COPY WITH
 THE ORIGINAL THEREOF FILED OR RECORDED IN MY OFFICE
 ON **OCT - 6 2016** AND THE SAME IS A CORRECT
 TRANSCRIPT THEREOF. IN WITNESS WHEREOF, I HAVE
 HEREUNTO SET MY HAND AND AFFIXED THE OFFICIAL SEAL.

Ann G. Rabbitt

OCT - 6 2016

COUNTY CLERK & CLERK OF THE SUPREME COUNTY COURTS,
 ORANGE COUNTY

Ann G. Rabbitt

Ann G. Rabbitt
 Orange County Clerk

Record and Return To:

TOOHER & BARONE LLP
 313 HAMILTON ST
 ALBANY NY 12210

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

THIS INDENTURE made this 19th day of September, 2016, between Owner(s) City of Newburgh, having an office at 83 Broadway, Newburgh, New York 12550, County of Orange, 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 7-11 Johnes Street (a/k/a 9 Johnes Street) in the City of Newburgh, County of Orange and State of New York, known and designated on the tax map of the County Clerk of Orange as tax map parcel numbers: Section 46 Block 1 Lot 14, being the same property identified as "In Rem No. 441" on the list of delinquent parcels conveyed to Grantor by tax foreclosure deed dated February 28, 1998 and recorded in the Orange County Clerk's Office in Liber and Page 4728/181. Also, being the same property identified as "In Rem No. 441" on the list of delinquent parcels conveyed to Grantor by correction tax foreclosure deed dated March 30, 1998 and recorded in the Orange County Clerk's Office in Liber and Page 4772/209. The property subject to this Environmental Easement (the "Controlled Property") comprises approximately 0.1722 +/- acres, and is hereinafter more fully described in the Land Title Survey dated June 20, 2016 prepared by Norman Reid, P.L.S., which will be attached to the Site Management Plan. The Controlled Property description is set forth in and attached hereto as Schedule A; and

14-1-46

WHEREAS, the Department accepts this Environmental Easement in order to ensure the protection of public 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 State Assistance Contract Number: C304321, 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) The use of groundwater underlying the property is prohibited without necessary water quality treatment as determined by the NYSDOH or the Orange County Department of Health to render it safe for use as drinking water or for industrial purposes, and the user must first notify and obtain written approval to do so from the Department;

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

(6) 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;

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

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

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

(10) 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 as defined in 6NYCRR 375-1.8(g)(2)(i) and (ii), 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, at such time as NYSDEC may require, 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.

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, and Grantee may take any other appropriate action reasonably necessary to remedy any breach of this Environmental Easement, including the commencement of any proceedings in accordance with applicable law.

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 any enforcement rights.

6. Notice. Whenever notice to the Grantee (other than the annual certification) or approval from the Grantee is required, the Party providing such notice or seeking such approval shall identify the Controlled Property by referencing the following information:

County, NYSDEC Site Number, NYSDEC Brownfield Cleanup Agreement, State Assistance Contract or Order Number, and the County tax map number or the Liber and Page or computerized system identification number.

Parties shall address correspondence to: Site Number: B00188
Office of General Counsel
NYSDEC
625 Broadway
Albany New York 12233-5500

With a copy to: Site Control Section
Division of Environmental Remediation
NYSDEC
625 Broadway
Albany, NY 12233

All notices and correspondence shall be delivered by hand, 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 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. Any amendment to this Environmental Easement may only be executed by 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.

9. Extinguishment. This Environmental Easement may be extinguished only by a release by 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.

Remainder of Page Intentionally Left Blank

IN WITNESS WHEREOF, Grantor has caused this instrument to be signed in its name.

City of Newburgh:

By: 

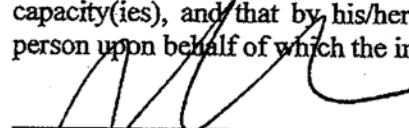
Print Name: Michael G. Ciarravino

Title: City Manager Date: 9/1/16
per Res # 194-1999

Grantor's Acknowledgment

STATE OF NEW YORK)
) ss:
COUNTY OF)

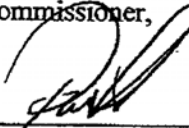
On the 1st day of SEPTEMBER in the year 2016 before me, the undersigned, personally appeared MICHAEL G. CIARRAVINO, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that 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.



Notary Public - State of New York

MICHELLE KELSON
Notary Public, State Of New York
Sullivan County Clerk's #2564
Commission Expires: March 20, 2018

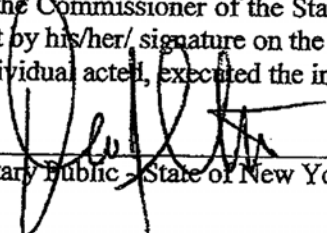
THIS ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY THE PEOPLE OF THE STATE OF NEW YORK, Acting By and Through the Department of Environmental Conservation as Designee of the Commissioner,

By: 
Robert W. Schick, Director
Division of Environmental Remediation

Grantee's Acknowledgment .

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

On the 19th day of September, in the year 2016 before me, the undersigned, personally appeared Robert W. Schick, 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, 2018

RECORD & RETURN:
Lindsay T. Perkins
Tooher & Barone, LLP
313 Hamilton Street
Albany, NY 12210

SCHEDULE "A" PROPERTY DESCRIPTION

All that certain plot, piece or parcel of land, with buildings and improvements thereon erected, situate, lying and being in the City of Newburgh, County of Orange and State of New York, known and designated as Lot 14 Block 1, Section 46 as shown on the City of Newburgh Tax Map, bounded and described as follows:

BEGINNING at the Southeast Corner of Lot 14, a point on the Westerly side of Johnes Street, distance 75.00 feet Northerly from corner formed by the intersection of the said side and the Northerly side of Renwick Street, said point whose coordinates N 969803.59 E 626236.76 of the New York State Plane Coordinates System East Zone NAD83/ (2011) survey baseline;

Thence run N85° 09' 20"W along the Southerly line of said Lot 14 for a distance of 100.00 feet to a point;

Thence run N04° 55' 40"E along the Westerly lines of Lot 14 for a distance of 75.00 feet to a point;

Thence run S85° 09' 20"E along the Northerly line of Lot14 for a distance of 100.00 feet to a point;

Thence run S04° 55' 40"W along the Easterly lines of Lot 14 for a distance of 75.00 feet to the point or place of beginning.

Containing 0.1722 acres more or less



ORANGE COUNTY – STATE OF NEW YORK
 ANN G. RABBITT, COUNTY CLERK
 255 MAIN STREET
 GOSHEN, NEW YORK 10924

COUNTY CLERK'S RECORDING PAGE
 THIS PAGE IS PART OF THE DOCUMENT – DO NOT DETACH



Recording:
 Recording Fee 70.00
 Cultural Ed 14.25
 Records Management - Coun 1.00
 Records Management - Stat 4.75
 TP584 5.00

BOOK/PAGE: 14119 / 1990
 INSTRUMENT #: 20160066331

Sub Total: 95.00

Receipt#: 2208085
 Clerk: CH
 Rec Date: 10/06/2016 03:01:39 PM
 Doc Grp: D
 Descrip: RT WY
 Num Pgs: 10
 Rec'd Frm: HARDENBURGH ABSTRACT CORP (28)

Transfer Tax
 Transfer Tax - State 0.00
 Sub Total: 0.00

Total: 95.00
 **** NOTICE: THIS IS NOT A BILL ****

Party1: NEWBURGH CITY
 Party2: NYS DEPT OF ENVIRONMENTAL
 CONSERVATION
 Town: NEWBURGH (CITY)
 14-1-46

***** Transfer Tax *****
 Transfer Tax #: 2154
 Transfer Tax
 Consideration: 0.00
 Total: 0.00

Payment Type: Check
 Cash
 Charge
 No Fee

Comment: _____

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 HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL

Ann G. Rabbitt **OCT - 6 2016**

COUNTY CLERK & CLERK OF THE SUPREME COUNTY COURTS,
 ORANGE COUNTY

Ann G. Rabbitt

Ann G. Rabbitt
 Orange County Clerk

Record and Return To:

TOOHER & BARONE LLP
 313 HAMILTON ST
 ALBANY NY 12210

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

THIS INDENTURE made this 19th day of September, 2016 between Owner(s) City of Newburgh, having an office at 83 Broadway, Newburgh, New York 12550, County of Orange, 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 7-11 Johnes Street (a/k/a 9 Johnes Street) in the City of Newburgh, County of Orange and State of New York, known and designated on the tax map of the County Clerk of Orange as tax map parcel numbers: Section 46 Block 1 Lot 14, being the same property identified as "In Rem No. 441" on the list of delinquent parcels conveyed to Grantor by tax foreclosure deed dated February 28, 1998 and recorded in the Orange County Clerk's Office in Liber and Page 4728/181. Also, being the same property identified as "In Rem No. 441" on the list of delinquent parcels conveyed to Grantor by correction tax foreclosure deed dated March 30, 1998 and recorded in the Orange County Clerk's Office in Liber and Page 4772/209. The property subject to this Environmental Easement (the "Controlled Property") comprises approximately 0.1722 +/- acres, and is hereinafter more fully described in the Land Title Survey dated June 20, 2016 prepared by Norman Reid, P.L.S., which will be attached to the Site Management Plan. The Controlled Property description is set forth in and attached hereto as Schedule A; and

14-1-49

WHEREAS, the Department accepts this Environmental Easement in order to ensure the protection of public 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 State Assistance Contract Number: C304321, 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) The use of groundwater underlying the property is prohibited without necessary water quality treatment as determined by the NYSDOH or the Orange County Department of Health to render it safe for use as drinking water or for industrial purposes, and the user must first notify and obtain written approval to do so from the Department;

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

(6) 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;

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

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

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

(10) 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 as defined in 6NYCRR 375-1.8(g)(2)(i) and (ii), 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:

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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, at such time as NYSDEC may require, 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.

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, and Grantee may take any other appropriate action reasonably necessary to remedy any breach of this Environmental Easement, including the commencement of any proceedings in accordance with applicable law.

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 any enforcement rights.

6. Notice. Whenever notice to the Grantee (other than the annual certification) or approval from the Grantee is required, the Party providing such notice or seeking such approval shall identify the Controlled Property by referencing the following information:

County, NYSDEC Site Number, NYSDEC Brownfield Cleanup Agreement, State Assistance Contract or Order Number, and the County tax map number or the Liber and Page or computerized system identification number.

Parties shall address correspondence to: Site Number: B00188
Office of General Counsel
NYSDEC
625 Broadway
Albany New York 12233-5500

With a copy to: Site Control Section
Division of Environmental Remediation
NYSDEC
625 Broadway
Albany, NY 12233

All notices and correspondence shall be delivered by hand, by registered mail or by Certified mail and return receipt requested. The Parties may provide for other means of receiving and

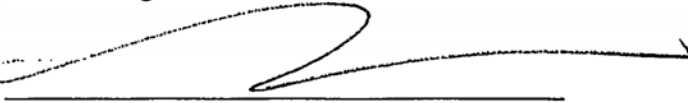
communicating notices and responses to requests for approval.

7. Recordation. Grantor shall record this instrument, within thirty (30) days of execution of this instrument by the Commissioner 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. Any amendment to this Environmental Easement may only be executed by 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.
9. Extinguishment. This Environmental Easement may be extinguished only by a release by 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.

Remainder of Page Intentionally Left Blank

IN WITNESS WHEREOF, Grantor has caused this instrument to be signed in its name.

City of Newburgh:

By: 

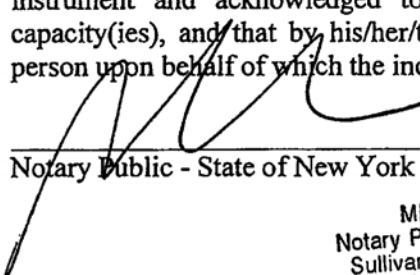
Print Name: Michael E. Ciavino

Title: City Manager Date: 9/1/16
per RES # 194-1999

Grantor's Acknowledgment

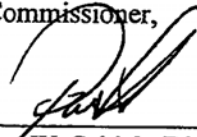
STATE OF NEW YORK)
) ss:
COUNTY OF)

On the 1st day of SEPTEMBER in the year 2016, before me, the undersigned, personally appeared, MICHAEL E. CIAVINO, 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.


Notary Public - State of New York

MICHELLE KELSON
Notary Public, State Of New York
Sullivan County Clerk's #2564
Commission Expires: March 20, 2018

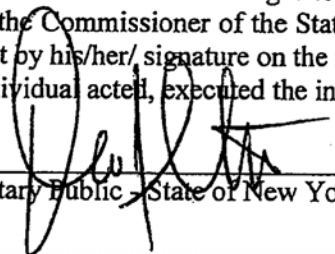
THIS ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY THE PEOPLE OF THE STATE OF NEW YORK, Acting By and Through the Department of Environmental Conservation as Designee of the Commissioner,

By: 
Robert W. Schick, Director
Division of Environmental Remediation

Grantee's Acknowledgment

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

On the 19th day of September, in the year 2016 before me, the undersigned, personally appeared Robert W. Schick, 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. 01CH5082146
Qualified in Schenectady County
Commission Expires August 22, 2018

RECORD & RETURN:
Lindsay T. Perkins
Tooher & Barone, LLP
313 Hamilton Street
Albany, NY 12210

SCHEDULE "A" PROPERTY DESCRIPTION

All that certain plot, piece or parcel of land, with buildings and improvements thereon erected, situate, lying and being in the City of Newburgh, County of Orange and State of New York, known and designated as Lot 14 Block 1, Section 46 as shown on the City of Newburgh Tax Map, bounded and described as follows:

BEGINNING at the Southeast Corner of Lot 14, a point on the Westerly side of Johnes Street, distance 75.00 feet Northerly from corner formed by the intersection of the said side and the Northerly side of Renwick Street, said point whose coordinates N 969803.59 E 626236.76 of the New York State Plane Coordinates System East Zone NAD83/ (2011) survey baseline;

Thence run N85° 09' 20"W along the Southerly line of said Lot 14 for a distance of 100.00 feet to a point;

Thence run N04° 55' 40"E along the Westerly lines of Lot 14 for a distance of 75.00 feet to a point;

Thence run S85° 09' 20"E along the Northerly line of Lot 14 for a distance of 100.00 feet to a point;

Thence run S04° 55' 40"W along the Easterly lines of Lot 14 for a distance of 75.00 feet to the point or place of beginning.

Containing 0.1722 acres more or less

TOOHER & BARONE, LLP

ROBINSON SQUARE
313 HAMILTON STREET
ALBANY, N.Y. 12210
TEL (518) 432-4100
FAX (518) 432-4200

Meave M. Toohar
John L. Barone

William F. Demarest III

OF COUNSEL

Helene G. Goldberger

October 28, 2016

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Mayor Judy Kennedy
City of Newburgh
City Hall, Second Floor
83 Broadway
Newburgh, NY 12250

Re: Notice to Municipality: Environmental Easement

Dear Mayor Kennedy:

Enclosed please find a copy of an environmental easement granted to the New York State Department of Environmental Conservation ("Department") dated September 19, 2016, by the City of Newburgh for property at 7-11 Johnes Street (a/k/a 9 Johnes Street), Tax Map No. 46-1-14, DEC Site No: B00188.

This Environmental Easement restricts future use of the above referenced property to Commercial or Industrial uses. Any on-site activity must be done in accordance with the Environmental Easement and the Site Management Plan which is incorporated into the Environmental Easement. Department approval is also required prior to any groundwater use.

Article 71, Section 71-3607 of the New York State Environmental Conservation Law requires that:

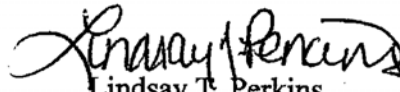
1. Whenever the department is granted an environmental easement, it shall provide each affected local government with a copy of such easement and shall also provide a copy of any documents modifying or terminating such environmental easement.
2. Whenever an affected local government receives an application for a building permit or any other application affecting land use or development of land that is subject to an environmental easement and that may relate to or impact such easement, the affected local government shall notify the department and refer such application to the department. The department shall evaluate whether the application is consistent with the environmental

Mayor Judy Kennedy
City of Newburgh
October 28, 2016
Page 2

easement and shall notify the affected local government of its determination in a timely fashion, considering the time frame for the local government's review of the application. The affected local government shall not approve the application until it receives approval from the department.

An electronic version of every environmental easement that has been accepted by the Department is available to the public at: <http://www.dec.ny.gov/chemical/36045.html>. Please forward this notice to your building and/or planning departments, as applicable, to ensure your compliance with these provisions of the New York State Environmental Conservation Law. If you have any questions or comments regarding this matter, please do not hesitate to contact me.

Very truly yours,


Lindsay T. Perkins
Office Manager

Enclosures



7012 2920 0000 5480 3681

TOOHER & BARONE, LLP

ROBINSON SQUARE
313 HAMILTON STREET
ALBANY, N.Y. 12210

To:

Mayor Judy Kennedy
City of Newburgh
City Hall, Second Floor
83 Broadway
Newburgh, NY 12250

Mayor Judy Kennedy
City of Newburgh
City Hall, Second Floor, 83 Broadway
Newburgh, NY 12250



9590 9403 0457 5168 2478 47

2. Article Number (transfer from service label)

7012 2920 0000 5480 3681

PS Form 3811, April 2015 PSN 7530-02-000-9063

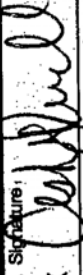
SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

PS Form

COMPLETE THIS SECTION ON DELIVERY

A. Signature:  Agent Addressee

B. Received by (Printed Name): _____ C. Date of Delivery: _____

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below: _____

3. Service Type

Adult Signature
 Registered Mail Restricted Delivery
 Certified Mail®
 Certified Mail Restricted Delivery
 Collect on Delivery
 Collect on Delivery Restricted Delivery

Priority Mail Express®
 Registered Mail™
 Registered Mail Restricted Delivery
 Return Receipt for Merchandise
 Signature Confirmation™
 Signature Confirmation Restricted Delivery

Domestic Return Receipt

U.S. Postal Service®

CERTIFIED MAIL™ RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at usps.com.

OFFICIAL RECEIPT

Postage \$ 1.36

Certified Fee 3.30

Return Receipt Fee (Endorsement Required) 2.70

Restricted Delivery Fee (Endorsement Required) 7.36

Total Postage & Fees \$ 14.66

02 1P
0003285284 OCT
MAILED FROM ZIP CODE 12550

Mayor Judy Kennedy
City of Newburgh
City Hall, Second Floor, 83 Broadway
Newburgh, NY 12250



UNITED STATES POSTAGE
PITNEY BOWES
\$007.36
02 1P
0003285284 OCT 28 2016
MAILED FROM ZIP CODE 12210