

AMENDMENT TO ENVIRONMENTAL EASEMENT

This Amendment to Environmental Easement is made as of this 9th day of JANUARY 2017, by and between The People of the State of New York, acting through their Commissioner of the Department of Environmental Conservation (“NYSDEC” or the “Department”) with its headquarters located at 625 Broadway, Albany, New York 12233, and The O’Neill Group-Dutton, LLC (“Grantor”) with its offices located at 241 Hudson Street, Hackensack, New Jersey 07601.

RECITALS

1. Grantor is the owner of certain land known and designated on the tax map of the Town of Poughkeepsie, County of Dutchess and State of New York as tax map parcel number: Section 6062 Block 59 Lots 737435, 738405 and 744432, being a portion of the property conveyed to Grantor by the Correction Letters Patent recorded on October 16, 2015 and filed in the Book of Patents 118 at Page 102.
2. The Department and Grantor entered into that certain Environmental Easement (“Environmental Easement”) dated as of September 29, 2016 and recorded in the office of the Dutchess County Clerk on November 2, 2016 as Document Number 02 2016 7528. Capitalized terms used herein without definition have the meanings ascribed to them in the Environmental Easement. The property comprises approximately 1.844 +/- acres, as hereinafter more fully described in Schedule “A”.
3. Pursuant to Section 1, 2, 3, 4, and 5 of the Environmental Easement, Grantor granted the Department rights and interests that run with the land in perpetuity in order to provide an effective and enforceable means of encouraging the reuse and redevelopment of the Controlled Property at a level that has been determined to be safe for a specific use while ensuring the performance of maintenance, monitoring or operation requirements; and to ensure the potential restriction of future uses of the land that are inconsistent with the stated purpose.
4. Pursuant to Section 2 A of the Environmental Easement, the Controlled Property may only be used for Restricted-Residential, Commercial and Industrial uses described in 6 NYCRR §375-1.8(g) and may only be used consistent with controls set out in that Section 2 A of the Environmental Easement.
5. This Amendment to the Environmental Easement is filed solely in order to correct a mutual mistake between the Department and Grantor relating to the legal description and property boundary for the Controlled Property that was attached as Schedule “A” to that Environmental Easement, and described on the Land Title Survey dated May 26, 2016 and revised on August 1, 2016, prepared by Larry L. Lynn, L.L.S, also recorded with the Environmental Easement.
6. Pursuant to Section 8 of the Environmental Easement, the Department agrees to amend the Environmental Easement in the manner prescribed by Article 9 of the Real Property Law.

AMENDMENT OF ENVIRONMENTAL EASEMENT

- A. The above recitals are hereby incorporated into this Amendment of Environmental Easement.
- B. The Department and Grantor hereby agree that the 4th Whereas clause of the Environmental Easement is hereby amended to read as follows:

WHEREAS, Grantor, is the owner of real property located at the address of 1 Dutchess Avenue in the Town of Poughkeepsie, County of Dutchess and State of New York, known and designated on the tax map of the County Clerk of Dutchess as tax map parcel numbers: Section 6062 Block 59 Lots 737435 (Parcel A), 738405 (Parcel B) and 744432 (Parcel C), being a portion of the property conveyed to Grantor by the Correction Letters Patent recorded on October 16, 2015 and filed in Book of Patents 118 at Page 102. The property subject to this Environmental Easement (the "Controlled Property") comprises approximately 1.844 +/- acres, and is hereinafter more fully described in the Land Title Survey dated May 26, 2016, revised on August 1, 2016, and last revised December 16, 2016 prepared by Larry L. Lynn, L.L.S. ("Land Title Survey"), which will be attached to the Site Management Plan and recorded with the Environmental Easement. The Controlled Property description is set forth in and attached hereto as Schedule "A" – Amended Description of Controlled Property; and

- C. The Department and Grantor hereby agree that the metes and bounds description of the Controlled Property attached hereto as Schedule A shall replace the original metes and bounds description attached as Schedule "A" – Amended Description of Controlled Property to the September 29, 2016 Environmental Easement; and the December 16, 2016 version of the Land Title Survey shall replace the August 1, 2016 version previously recorded with the Environmental Easement.
- D. All other terms of the September 29, 2016 Environmental Easement shall remain in effect.
- E. This Amendment of Environmental Easement inures to and binds the parties hereto and their respective successors and assigns.
- F. This Amendment of Environmental Easement shall be governed by and interpreted in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, Grantor has caused this Amendment to Environmental Easement to be signed in its name.

The O'Neill Group-Dutton, LLC:

By: 


Print Name: Paula O'Neill

Title: Manager Date: 1-3-2017

Grantor's Acknowledgment


STATE OF NEW JERSEY)
) ss:
COUNTY OF BERGEN)

On the 3rd day of January, in the year 20 17, before me, the undersigned, personally appeared Paula O'Neill, 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 Jersey

TERESA DONEGAN
NOTARY PUBLIC OF NEW JERSEY
ID # 2430446
My Commission Expires 2/26/2018

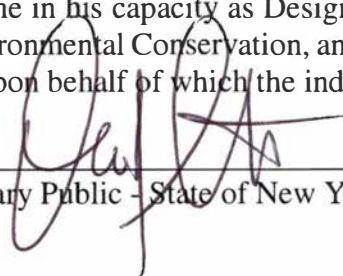
THIS AMENDMENT OF THE ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY THE PEOPLE OF THE STATE OF NEW YORK, Acting By and Through the Department of Environmental Conservation as Designee of the Commissioner,

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

Grantee's Acknowledgment

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

On the 9th day of JANUARY, in the year 2017, 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 whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity as Designee of the Commissioner of the State of New York Department of Environmental Conservation, 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 - State of New York

David J. Chiusano
Notary Public, State of New York
No. 01CH5032146
Qualified in Schenectady County
Commission Expires August 22, 2018

SCHEDULE "A" AMENDED DESCRIPTION OF CONTROLLED PROPERTY

PARCEL "A"

ALL that certain parcel of land now or formerly under the waters of the Hudson River, adjacent to and adjoining the lands of The O'Neill Group-Dutton, LLC, with the buildings and improvements thereon erected, situate, lying and being in the City Of Poughkeepsie, County of Dutchess and State of New York, being bounded and described as follows.

BEGINNING at a point on the northerly line of Dutchess Avenue in the City of Poughkeepsie at a point being N. 74° 44' 52" W., and distant 11.29 feet from the southwesterly corner of a grant of lands underwater to Martin Hoffman by Letters Patent dated August 10, 1815 and recorded in the New York State Department of State in Book 26 of Patents at page 505; thence from said point of beginning heading northerly through lands formerly under the waters of the Hudson River, the following 6 courses:

- 1) N. 05° 54' 45" E., a distance of 282.76 feet to a point;
- 2) S. 84° 05' 15" E., a distance of 7.39 feet to a point;
- 3) N. 05° 09' 22" E., a distance of 98.67 feet
- 4) on a curve to the right having a Radius of 142.43 feet, and a length of 49.92 feet to a point;
- 5) on a curve to the left having a Radius of 140.32 feet, and a length of 90.80 feet to a point;
- 6) on a curve to the right having a Radius of 178.64 feet, and a length of 23.23 feet (long chord, N. 08° 06' 43" W., a distance of 23.21 feet) to a point at the southwest corner of a grant of lands under water to Fallkill Iron Works by Letters Patent dated December 12, 1862 and recorded in Book 39 of Patents at page 128; thence heading along the same and not tangent to the previous curve, N. 06° 59' 22" E., a distance of 455.33 feet to the southwesterly corner of a grant of lands underwater to Henry D. Myers by Letters Patent dated March 26, 1870, recorded in Book 42 of Patents at page 1; thence along said lands granted to Myers, N. 06° 59' 22" E., a distance of 10.36 feet to the line between the City of Poughkeepsie and the Town of Poughkeepsie, said line formerly defined by the centerline of an underground stream known as "Kidney Creek"; thence heading northwesterly along the projected Town/City line and through lands formerly underwater, N. 74° 26' 38" W., a distance of 61.92 feet to a point at the high water line of the Hudson River as surveyed in 2008 and updated in 2014; thence heading southerly along said high water line on the easterly bank of the Hudson River, the following 12 courses:

- 1) S. 19° 23' 27" W., a distance of 17.56 feet to a point;
- 2) S. 11° 00' 54" W., a distance of 119.30 feet to a point;
- 3) S. 02° 39' 42" E., a distance of 122.29 feet to a point;
- 4) S. 00° 25' 59" W., a distance of 40.52 feet to a point;
- 5) S. 13° 56' 41" W., a distance of 49.66 feet to a point;
- 6) S. 03° 25' 44" W., a distance of 113.29 feet to a point;
- 7) S. 07° 49' 56" W., a distance of 159.96 feet to a point;
- 8) S. 26° 36' 51" W., a distance of 102.03 feet to a point;
- 9) S. 00° 44' 54" W., a distance of 48.36 feet to a point;
- 10) S. 14° 08' 55" W., a distance of 139.77 feet to a point;

11) S. 12° 42' 38" W., a distance of 77.49 feet to a point;

12) S. 23° 53' 38" W., a distance of 22.81 feet to a point at the projection of the northerly line of Dutchess Avenue; thence heading southeasterly along the Dutchess Avenue projection and through lands formerly under the waters of the Hudson River, S. 74° 44' 52" E., a distance of 112.02 feet to the point and place of beginning.

CONTAINING 1.576 acres of land, more or less.

PARCEL "B"

ALL that certain parcel of land now or formerly under the waters of the Hudson River, adjacent to and adjoining the lands of The O'Neill Group-Dutton, LLC, with the buildings and improvements thereon erected, situate, lying and being in the City Of Poughkeepsie, County of Dutchess and State of New York, being bounded and described as follows.

BEGINNING at a point on the northerly line of Dutchess Avenue in the City of Poughkeepsie at the southwesterly corner of a grant of lands underwater to Martin Hoffman by Letters Patent dated August 10, 1815 and recorded in the New York State Department of State in Book 26 of Patents at page 505; thence heading northwesterly along the northerly line of Dutchess Avenue, N. 74° 44' 52" W., a distance of 11.29 feet to a point; thence heading northeasterly through lands formerly under the waters of the Hudson River, N. 05° 54' 45" E., a distance of 282.76 feet and S. 84° 05' 15" E., a distance of 7.39 feet to a point on the previously mentioned Hoffman Patent line; thence heading southwesterly along the Hoffman Patent line, S. 05° 09' 22" W., a distance of 284.61 feet to a the point and place of beginning.

CONTAINING 0.060 acres of land, more or less.

PARCEL "C"

ALL that certain parcel of land now or formerly under the waters of the Hudson River, adjacent to and adjoining the lands of The O'Neill Group-Dutton, LLC, with the buildings and improvements thereon erected, situate, lying and being in the City Of Poughkeepsie, County of Dutchess and State of New York, being bounded and described as follows.

BEGINNING at a point at a corner of a grant of lands underwater to Martin Hoffman by Letters Patent dated August 10, 1815 and recorded in the New York State Department of State in Book 26 of Patents at page 505 said point being N. 05° 09' 22" E., a distance of 383.28 feet along the lands granted to Hoffman from a point on the northerly line of Dutchess Avenue in the City of Poughkeepsie at the northwesterly corner of the Hoffman Patent; thence heading southeasterly along the Hoffman Patent, S. 84° 50' 38" E., a distance of 66.00 feet to a corner of a grant of lands under water to John Delafield by Letters Patent dated September 22, 1836 and recorded in Book 31 of Patents at page 39; thence continuing along said lands granted to Delafield, N. 05° 09' 22" E., a distance of 164.29 feet to a corner of a grant of lands under water to Fallkill Iron Works by Letters Patent dated December 12, 1862 and recorded in Book 39 of Patents at page 128; thence along the lands granted to Fallkill Iron Works, N. 88° 15' 38" W., a distance of 60.37 feet to the southwesterly corner of the same at the lands previously under the waters of the Hudson River; thence heading southerly through the lands previously under waters of the Hudson River, the following 3 courses:

- 1) on a curve to the left having a Radius of 178.64 feet, and a length of 23.23 feet to a point;
- 2) on a curve to the right having a Radius of 140.32 feet, and a length of 90.80 feet to a point;
- 3) on a curve to the left having a Radius of 142.43 feet, and a length of 49.92 feet to a the point and place of beginning.

CONTAINING 0.208 acres of land, more or less.