NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Office of the General Counsel
625 Broadway, 14th Floor, Albany, New York 12233-1500
P: (518) 402-9185 | F: (518) 402-9018
www.dec.ny.gov

April 18, 2019

SENT VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
AND ELECTRONIC MAIL mpeters@westfirmlaw.com

Michael W. Peters, Esq.
The West Firm
677 Broadway, 8th Floor
Albany, N.Y. 12207-2996

RE: Environmental Easement Package
Site Name: Shore Realty Corporation (AES)
Site No.: 130006

Dear Mr. Peters:

Enclosed, please find a fully executed Environmental Easement, and TP 584.2 tax form referencing the site located at One Shore Road, Glenwood Landing, County of Nassau, New York.

Once the Environmental Easement is recorded, the local municipality will need to be notified via Certified Mail, Return Receipt Requested.

Please return a copy of the recorded easement marked by the County Clerk's Office with the date and location of recording, and a certified copy of the municipal notice. The information from the recorded easement and notices are necessary to process the Certificate of Completion.

If you have any further questions or concerns relating to this matter, please contact our office at (518) 408-0409.

Sincerely,

Jennifer Andaloro, Esq.
Section Chief A
Remediation Bureau

ec: B. Burns, Esq., NYSDEC

ENVIRONMNETAL EASEMENT GRANTED PURSUANT TO ARTICLE 71, TITLE 36

OF THE NEW YORK STATE ENVIRONMENTAL CONSERVATION LAW

THIS INDENTURE made this 17th day of April, 2019, between Owner Shore Realty Corp., having an office C/O Thomas West, Receiver of Shore Realty Corporation., The West Firm, PLLC, 677 Broadway, 8th Floor, Albany, New York 12207 (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 One Shore Road, Glenwood Landing, Town of North Hempstead, County of Nassau and State of New York, known and designated on the tax map of the County Clerk of Nassau County as tax map parcel numbers: Section 20, Block A, Lot 35, being the property conveyed to Grantor by deed dated October 13, 1983 and recorded in the Nassau County Clerk's Office in Liber (Deed) and Page 9510/672.

WHEREAS, the property subject to this Environmental Easement (the "Controlled Property") comprises approximately 3.31 acres, and is hereinafter more fully described in the Land Title Survey completed on February 13, 2019 prepared by Donald G. Dekenipp L.S., P.C., Professional Land Surveyor, which will be attached to the Site Management Plan. The Controlled Property description is set forth in and attached hereto as Schedule A; and

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 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 to be listed in a 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 and run with the land. To the extent there are any inconsistencies between the SMP and this Easement, the terms of the SMP shall control. The below institutional controls 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 in a manner specified below.

A. The following institutional controls shall be implemented by Grantors:

(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) Grantor and subsequent Site owners shall ensure that the Environmental Easement remains in place and effect.

(3) Grantor shall ensure that the use of groundwater underlying the property is prohibited without necessary water quality treatment as determined by the NYSDOH or the Nassau 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. Grantor shall adhere to the institutional controls required by the Environmental Easement, including the prohibition of the use of groundwater underlying the property without treatment rendering it safe for intended use; the prohibition of raising livestock or producing animal products for human consumption; and the prohibition of installation of a basement beneath on-site structures.

(4) All future activities on the property that will disturb remaining

contaminated material must be conducted in accordance with the SMP. Uses of the property in existence today are and shall be deemed to be in accordance with the SMP.

(5) Upon the Department's written request with reasonable advance notice, Grantor and subsequent Site owners shall submit a written statement certifying that:

(1) the institutional controls at the property:
  (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 institutional controls are in the Department-approved format; and
  (iii) that nothing has occurred that would impair the ability of such institutional control to protect the public health and environment;
(2) the owner will continue to allow the Department access to such real property to evaluate institutional and engineering controls;
(3) nothing has occurred that would constitute a violation or failure to comply with any site management plan for such institutional controls;
(4) the information presented is accurate and complete.

(6) Grantor and subsequent Site owners shall notify the Department of changes of Site use and/or ownership.

(7) Grantor and subsequent Site owners shall report emergencies to the Department and other appropriate authorities.

(8) 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.

(9) The Controlled Property shall not be used for Residential purposes as defined in 6NYCRR 375-1.8(g)(2)(i), and the above-stated engineering controls may not be discontinued without an amendment or extinguishment of this Environmental Easement.

(10) Grantor shall obtain 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

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.

(11) 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.

(12) 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.

(13) 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, at reasonable times and with reasonable notice to Grantor to assure compliance with the above-stated restrictions.

(14) 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:

(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 part or all of the underlying fee interest to the Controlled Property, subject and subordinate to this Environmental Easement.

B. All Engineering Controls shall be operated and maintained by Grantee as specified in the Site Management Plan (SMP).

(1) Grantee shall develop, install, operate, inspect, monitor and maintain the on-site and off-site engineering control(s) including any further investigations and implementation of a selected remedy. All Engineering Controls must be inspected at a frequency and in a manner defined in the SMP by Grantee.

(2) Grantee shall undertake periodic groundwater sampling.

(3) Data and information pertinent to Site Management of the Controlled Property must be reported by Grantee at the frequency and in a manner defined in the SMP.

(4) Monitoring to assess the performance and effectiveness of the remedy shall be performed by Grantee as defined in the SMP.

(5) Grantee shall annually submit a written statement certifying that:

(1) the 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;

(2) nothing has occurred that would constitute a violation or failure to comply with any site management plan for such institutional controls; and

(3) the information presented is accurate and complete.

(6) Grantee shall prepare periodic review reports evaluating institutional and engineering controls.

(7) Grantee shall prepare and implement a corrective measures plan, if necessary.

(8) Operation, maintenance, monitoring, inspection, and reporting of any mechanical or physical components of the remedy shall be performed by Grantee as defined in the SMP. Grantee shall operate, maintain, monitor, inspect, and prepare reports evaluating mechanical or physical components of the remedy.

(9) Grantee shall decommission Site monitoring wells at an appropriate time to be determined by the Department.

(10) Grantee, its agents, employees, or other representatives of the State may enter and inspect the Controlled Property in a reasonable manner, at reasonable times and with reasonable notice to Grantor to assure compliance with the above-stated restrictions.

3. 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 Grantor or its successors violates the institutional controls of this Environmental Easement, or takes any action to remove, alter or disturb any of the engineering controls placed on the Controlled Property, the Grantee may take any action available to it in law or equity.

C. Grantee shall notify Grantor of a breach or suspected breach of any of the terms of this Environmental Easement regarding Grantor's obligations. 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.

4. 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, 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: 130006
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.

5. 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.

6. 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.

7. 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.

8. 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.

9. Consistency with the SMP. To the extent there is any conflict or inconsistency between the terms of this Environmental Easement and the SMP, regarding matters specifically addressed by the SMP, the terms of the SMP will control.

Remainder of Page Intentionally Left Blank

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

By: _____

Print Name: Thomas S. West

Title: Receiver of Shore Realty Corporation Date: 3/6/19

Grantor's Acknowledgment

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

On the 6th day of March, in the year 2019, before me, the undersigned, personally appeared Thomas S. West, 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.

Theresa M. Kaczor
Notary Public - State of New York

THERESA M. KACZOR
Notary Public, State of New York
No. 01KA6332465
Qualified in Schenectady County
Commission Expires November 2, 2019

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: _____
Michael J. Ryan, Assistant Director
Division of Environmental Remediation

Grantee's Acknowledgment

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

On the 17th day of April, in the year 2019, before me, the undersigned, personally appeared Michael J. Ryan, 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, 2022

SCHEDULE "A" PROPERTY DESCRIPTION

All that certain plot, piece or parcel of land, situate, lying and being at Glenwood, in the Town of North Hempstead, County of Nassau and State of New York, bounded and described as follows:

Beginning at a locust stake on the northeast corner thereof, at a point on the southerly side of the Highway leading from Glenwood to Roslyn, adjoining land now or formerly of Mills, formerly of Mott, and from said point of beginning running along said side of said Highway south 73 degrees 56 minutes west through a stone monument 247.20 feet to the outer face of the Bulkhead of Hempstead Harbor;

Thence partly along the outer face of the Bulkhead of Hempstead Harbor and partly along the outer face of the Bulkhead of Mott Cove (an arm of Hempstead Harbor), as said Bulkheads existed on the 18th day of October, 1929, the following seven courses and distances:

South 27 degrees 04 minutes 50 seconds west 216.65 feet;

North 86 degrees 33 minutes 50 seconds west 124.81 feet;

South 3 degrees 44 minutes 10 seconds east 87.02 feet;

North 85 degrees 59 minutes 10 seconds east 45.31 feet;

South 12 degrees 37 minutes east 123.84 feet;

South 89 degrees 56 minutes 10 seconds east 198.11 feet, and

North 2 degrees 56 minutes 10 seconds west 53.29 feet;

Thence along the mean highwater mark of Mott Cove, as the same existed on the 18th day of October, 1929, the following three courses and distances:

North 77 degrees 56 minutes east through a stone monument 68.76 feet to a stone monument;

North 77 degrees 56 minutes east 157.23 feet to a locust stake;

North 3 degrees 6 minutes 20 seconds east 282.38 feet to a stone monument adjoining land now or formerly of Mills, formerly of Mott;

Thence along said last mentioned land north 32 degrees 41 minutes 50 seconds west 90.48 feet to the point or place of beginning.

TP-584.2 (10/96)

Recording Office Time Stamp

Real Estate Transfer Tax Return For Public Utility Companies' and Governmental Agencies' Easements and Licenses

This form may only be used by public utility companies regulated by the Public Service Commission and governmental agencies for the recording of easements and licenses where the consideration for the grant of such easement or license is $500.00 or less.

Name of grantee (public utility company or governmental agency)	Federal employer identification number (If applicable)
The New York State Department of Environmental Conservation	14-6013200
Address of grantee	**Name and telephone number of person to contact**
625 Broadway, Albany, New York 12233-1500	Bradford Burns 518-402-9518

Name(s) of Grantor Of Easement or License	Address of Property	Consideration Given For Easement or License
1. Shore Realty Corporation	1 Shore Road, Glenwood Landing, North Hempstead, NY	$0.00
2.		
3.		
4.		
5.		
6.		
7.	Tax Map No.: Section 20, Block A, Lot 35	
8.		
9.		
10.	ENVIRONMENTAL EASEMENT HELD BY NYS DEC	
11.	PURSUANT TO TITLE 36 ARTICLE 71	
12.	OF THE NYS ENVIRONMENTAL CONSERVATION LAW	
13.	SITE NO.: 130006	
14.		
15.		

If more than fifteen conveyances are to be recorded, attach a schedule of such other conveyances.

Signature of Grantee

I certify that the grantee is a public utility regulated by the Public Service Commission or is a governmental agency and the grantee of the easements and/or licenses above; that it is true to the best knowledge of the grantee that the granting of each such easement and/or license is exempt from Real Estate Transfer Tax imposed by Article 31 of the Tax Law by reason that each such conveyance is for a consideration of five hundred dollars or less and/or the conveyance is being made to a governmental agency.

NYS Department of Environmental Conservation
Name of grantee

Signature of partner, officer of corporation, governmental official, etc.

Senior Attorney - Counsel's Office
Title