

**ROBERT H. FELLER**  
[fellerr@bsk.com](mailto:fellerr@bsk.com)  
P: 518.533.3222  
F: 518.533.3299

February 16, 2016

**VIA FIRST CLASS MAIL**

Maria Mastroianni  
New York State Department of Environmental Conservation  
625 Broadway  
Rm. 627  
Albany, NY 12233

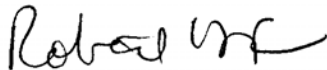
Re: *CJH Enterprises, LLC*

Dear Ms. Mastroianni:

Enclosed is the fully executed environmental easement and proof of filing for CJH Enterprises, LLC. If you have any questions, please feel free to contact me.

Very truly yours,

BOND, SCHOENECK & KING, PLLC



Robert H. Feller

RHF/os

cc: Dolores Tuohy



SARATOGA COUNTY – STATE OF NEW YORK  
 SARATOGA COUNTY CLERK  
 CRAIG A. HAYNER  
 40 MCMASTER STREET, BALLSTON SPA, NY 12020

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



Recording:

Pages	50.00
Cover Sheet Fee	5.00
Recording Fee	20.00
Cultural Ed	14.25
Records Management - Coun	1.00
Records Management - Stat	4.75
Names	0.00
TP 584	5.00

Sub Total: 100.00

Transfer Tax	
Transfer Tax	0.00

Sub Total: 0.00

Total: 100.00

\*\*\*\* NOTICE: THIS IS NOT A BILL \*\*\*\*

\*\*\*\*\* Transfer Tax \*\*\*\*\*  
 Transfer Tax #: 3882  
 Transfer Tax  
 Consideration: 0.00

Total: 0.00

INSTRUMENT #: 2016003658

Receipt#: 2016212021091  
 Clerk: CG  
 Rec Date: 02/04/2016 10:07:00 AM  
 Doc Grp: D  
 Descrip: REGULAR EASEMENT  
 Num Pgs: 11

Party1: CJH ENTERPRISES LLC  
 Party2: NEW YORK STATE PEOPLE OF  
 Town: MILTON

RECEIVED

FEB 16 2016

BOND, SCHOENECK & KING, PLLC

Record and Return To:

BOND SCHOENECK AND KING  
 ONE LINCOLN CENTER  
 SYRACUSE, NY 13202

2016003658

02/04/2016 10:07:00 AM

11 Pages RECORDED

REGULAR EASEMENT

Saratoga County Clerk

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

**THIS INDENTURE** made this 4<sup>th</sup> day of December, 2015, between Owner(s) CJH Enterprises, LLC, having an office at 35 Bath Avenue, County of Saratoga, 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 Galway Street in the Village of Ballston Spa, Town of Milton, County of Saratoga and State of New York, known and designated on the tax map of the County Clerk of Saratoga as tax map parcel numbers: Section 216.31 Block 3 Lot 18, being the same as that property conveyed to Grantor by deed dated March 1, 2000 and recorded in the Saratoga County Clerk's Office in Liber 1544 and Page 381. The property subject to this Environmental Easement (the "Controlled Property") comprises approximately 0.29 +/- acres, and is hereinafter more fully described in the Land Title Survey dated June 2013 and revised on May 8, 2014 prepared by YEC, INC., 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 and the terms and conditions of Order on Consent Index Number: CO 5-20150828-58, 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:

**Restricted Residential as described in 6 NYCRR Part 375-1.8(g)(2)(ii),  
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) The Controlled Property must be operated and maintained in a manner not inconsistent with the Site Management Plan (SMP);

(3) Grantor must notify the Department in the event any Controlled Property condition is observed that suggests or indicates that there is a failure of any element of the SMP;

(4) The use of groundwater underlying the property is prohibited without necessary water quality treatment as determined by the NYSDOH or the Saratoga 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 and will be performed by the Department;

(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 and will be developed by the Department;

(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 and will be performed by the Department;

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

(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 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.

C. The Grantor acknowledges that obligations contained in the SMP, which may include sampling, monitoring, and/or operating a treatment system, and providing certified reports to the NYSDEC, are and remain fundamental elements 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 operating the Controlled Property in a manner that is not inconsistent 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, in such form and manner as the Department may require, confirming and updating Controlled Property information, including:

- (1) general information (name, address, etc.),
- (2) whether some or all of the property has been sold, subdivided, merged, or undergone a tax map amendment during the reporting period,
- (3) whether there has been a change of use during the reporting period,
- (4) whether any federal, state, and/or local permits have been issued for or at the property during the reporting period,
- (5) whether the property has been/or is being developed,
- (6) whether the property's current use is consistent with the allowed uses described in the Department's records,
- (7) whether all institutional controls remain in place and functioning as designed, and
- (8) certification regarding all institutional controls and any engineering controls, if applicable, that: (i) they remain unchanged since the control was put in place or last approved by the Department; (ii) nothing has occurred that would impair the ability of the controls to protect public health and the environment; (iii) access will continue to be provided to the Department; and (iv) that nothing has occurred that would constitute a violation or failure to comply with the SMP.

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: 546021  
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

CJH Enterprises, LLC:

By: Gino Bardi *Gino Bardi*

Print Name: Gino Bardi

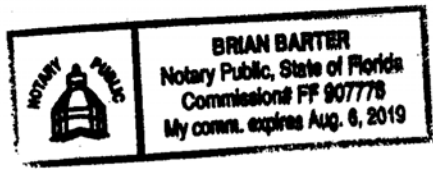
Title: Chairman  
Sole Stock Holder Date: Oct 6, 2015

**Grantor's Acknowledgment**

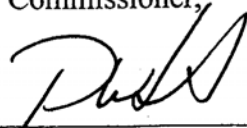
~~STATE OF NEW YORK~~ )  
FLORIDA ) ss:  
COUNTY OF Pasco )

On the 6<sup>th</sup> day of October in the year 2015, before me, the undersigned, personally appeared Gino Bardi, 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.

*[Signature]*  
Notary Public - State of New York  
FLORIDA



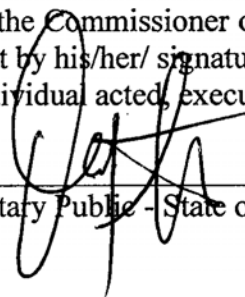
**THIS ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY THE PEOPLE OF THE STATE OF NEW YORK**, Acting By and Through the Department of Environmental Conservation as Designee of the Commissioner,

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

**Grantee's Acknowledgment**

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

On the 4<sup>th</sup> day of December, in the year 2015, 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

**SCHEDULE "A" PROPERTY DESCRIPTION**

All That Certain Piece or Parcel of Land, together with the portion of track located thereon, as well as a portion of track located on land of the party of the first part if said track still exists on said premises of the party of the first part at the time of this conveyance, situate in the Village of Ballston Spa, County of Saratoga and State of New York, bounded and described as follows, to wit:

Beginning at the intersection of the northerly line of Galway Street with the westerly line of land of the Saratoga and Schenectady Rail Road Company and the Delaware and Hudson Railroad Corporation; thence northerly along said westerly line of land of Saratoga and Schenectady Railroad Company (n/f) and the Delaware and Hudson Railroad Corporation (n/f) 35 feet, or thereabouts, to a corner distant northeasterly 8 feet measured radially from a point in the center line of the sidetrack serving the party of the first part; thence southeasterly, parallel with said center line and distant northeasterly 8 feet measured radially therefrom, 68 feet, or thereabouts, to a point in said line of Galway Street and thence westerly along said line of Galway Street 58 feet, or thereabouts, to the place of beginning, containing 880 square feet of land, be the same more or less.

Also, All That Certain Piece or Parcel of Land, situate, lying and being in the Village of Ballston Spa, Town of Milton, Saratoga County and State of New York, bounded and described as follows:

Beginning on the north line of Galway Street, 166' east of the east line of Court Street, and runs thence east along the north line of Galway Street 98', thence north 34'; thence north 47 degrees West, 126' 2" to the south line of Walnut Street; thence west along the south line of Walnut Street, 2' to a point 166' east of the east line of Court Street; thence south 119½' to the place of beginning, it being the east part of a lot conveyed to William H. Wendell by Robert McMaster as by reference to the deed thereof recorded in the Clerk's Office of said County in Deed Book ZZ, page 132&c., will more fully appear.

Excepting and Reserving Therefrom, a strip 12' wide on the north side thereof heretofore conveyed to the Rensselaer and Saratoga Railroad Company by deed recorded in the Saratoga County Clerk's Office in Book of Deeds 166 at Page 187.

Also All That Certain Lot, Piece or Parcel of Land, situate in the Village of Ballston Spa, Town of Milton, Saratoga County and State of New York, bounded as follows:

Beginning at the southwest corner of a lot of land owned by Isaiah Blood on Galway Street and running north along the west line of said Blood's lot 119' 6" to the south line of Walnut Street; thence west 38'; thence south along lands formerly owned by Samuel H. Cook 119' 6" to the north line of Galway Street; thence east along the north line of Galway Street 38' to the place of beginning.

Subject to all enforceable covenants, conditions, easements, and restrictions of record, if any, affecting the premises.

Together with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof.

Being the same premises as conveyed in a deed from David H. Hogan to Ballston Printing Company, Inc. dated September, 1990 and recorded in the Saratoga County Clerk's Office on October 11, 1990 in Book 1298 of Deeds at Page 27.

10 + 13  
32.00  
45  
77.00