The Office of the Westchester County Clerk: This page is part of the instrument; the County Clerk will rely on the information provided on this page for purposes of indexing this instrument. To the best of submitter's knowledge, the information contained on this Recording and Endorsement Cover Page is consistent with the information contained in the attached document.



Westchester County Recording & Endorsement Page Submitter Information Royal Abstract of New York LLC 2123760900 ext 6162 Phone: Name: 125 Park Avenue, Suite 1610 2123761911 Address 1: Fax: recordings@royalabstract.com Address 2: Email: City/State/Zip: New York NY 10017 Reference for Submitter: 916461 **Document Details** Control Number: 642693223 Document Type: Easement (EAS) 2024092500137001001 Document Page Count: 10 Package ID: Total Page Count: 12 **Parties** Additional Parties on Continuation page 1st PARTY 1: - Other 1: NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL C - Other **BUENA VISTA HOUSES INC** 2: 2: BUENA VISTA ASSOC L P - Other **Property** Additional Properties on Continuation page Street Address: 85 RIVERDALE AVENUE Tax Designation: 1-505-150 City/Town: **YONKERS** Village: Additional Cross-Refs on Continuation page **Cross-References** 2: 4: 1: **Supporting Documents** 1: TP-584 **Recording Fees Mortgage Taxes** Document Date: \$40.00 Statutory Recording Fee: \$55.00 Mortgage Amount: Page Fee: \$0.00 Cross-Reference Fee: Mortgage Affidavit Filing Fee: \$0.00 Basic: \$0.00 RP-5217 Filing Fee: \$0.00 Westchester: \$0.00 \$5.00 TP-584 Filing Fee: Additional: \$0.00 \$0.00 RPL 291 Notice Fee: MTA: \$0.00 Total Recording Fees Paid: \$100.00 Special: \$0.00 Transfer Taxes Yonkers: \$0.00 Consideration: \$0.00 Total Mortgage Tax: \$0.00 Transfer Tax: \$0.00 Exempt: Mansion Tax: Dwelling Type: \$0.00 Transfer Tax Number: Serial #: 2689 **Record and Return To** RECORDED IN THE OFFICE OF THE WESTCHESTER COUNTY CLERK ☐ Pick-up at County Clerk's office 09/26/2024 at 04:32 PM Recorded: Control Number: **642693223** Witness my hand and official seal **Royal Abstract** 125 Park AVenue, Suite 1610 Timothy C.Idoni Westchester County Clerk New York, NY 10017 Attn: 911335

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642693223EAS0021

Westchester County Recording & Endorsement Page

Document Details

Control Number: 642693223 Document Type: Easement (EAS)

Package ID: 2024092500137001001 Document Page Count: 10 Total Page Count: 12

1st PARTY Addendum

2nd PARTY Addendum

NEW YORK STATE OF Other

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

THIS INDENTURE made this 14 day of September. 2023, between Owners, Buena Vista Houses, Inc., (the "Grantor Fee Owner") having an office at 680 5th Avenue, 7th Floor City of New York, County of New York, State of New York, and Buena Vista Associates L.P., (the "Grantor Beneficial Owner), having an office at c/o Soul Economic (collectively, 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 85 Riverdale Avenue a/k/a 95 Riverdale Avenue a/k/a 80 Hawthorne Avenue in the City of Yonkers, County of Westchester and State of New York, known and designated on the tax map of the County Clerk of Westchester as tax map parcel number: Section 1 Block 505 Lot 150, being the same as that property conveyed to Grantor by deed dated April 26, 1972 and recorded in the Westchester County Clerk's Office in Liber and Page 7054/248. The property subject to this Environmental Easement (the "Controlled Property") comprises approximately 4.4565 ±/- acres, and is hereinafter more fully described in the Land Title Survey completed on October 16, 2015, and date of the map last revised on October 30, 2022, prepared by Erik J. Link, L.L.S. of Link Land Surveyors, P.C., 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, Grantor Beneficial Owner, is the owner of the beneficial interest in the Controlled Property being the same as a portion of that beneficial interest conveyed to Grantor Beneficial Owner by means of a Declaration of Interest and Nominee Agreement between Grantor Fee Owner and Grantor Beneficial Owner dated as of December 22, 2016 and recorded in County Clerk's Office on February 13, 2017, as Control No. 570113803;

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 Brownfield Cleanup Agreement Index Number: C360181-07-19, as amended, Granter 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. <u>Purposes</u>. Granter 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 or the land that are inconsistent with the above-stated purpose.
- 2. <u>Institutional and Engineering Controls</u>. 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 Granter and the Grantor's successors and assigns, and are enforceable in law or equity against any owner of the Controlled Properly, 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) 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 Westchester County Department of Health to render it safe lor 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 or 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 purposes as defined in 6 NYCRR 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 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 up-to-date versions 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 any 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 or 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 NY DEC 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 or the individual set forth at 6 NYCRR Pall 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. <u>Right to Enter and Inspect.</u> 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. <u>Reserved Grantor's Rights</u>. 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 privily 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 Granter 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 or time to cure, or any extensions granted by Grantee, the Grantee shall notify Grantor or 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 or the terms contained herein shall not be deemed a waiver of any such term nor bar any enforcement rights.
- 6. <u>Notice</u>. 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: C360181
Office or General Counsel NYSDEC
625 Broadway
Albany New York 12233-5500

With a copy to:

Site Control Section
Division or 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 or receiving and communicating notices and responses to requests for approval.

- 7. Recordation. Grantor shall record this instrument within thirty (30) days or execution or 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. <u>Amendment.</u> Any amendment to this Environmental Easement may only be executed by the Commissioner or the New York State Department of Environmental Conservation or the Commissioner's Designee, and filed with the office or 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. <u>Extinguishment.</u> 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. <u>Joint Obligation</u>. If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.
- 11. 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 Fee Owner has caused this instrument to be signed in its name.

Buena Vista Houses, Inc.:

By:

Print Name: Henry Abood:

Title: Executive Vice President Date: 12/12/2022

Grantor's Acknowledgment

STATE OF NEW YORK

COUNTY OF New YORK) SS

On the 12 L day of remark in the year 20 22 before me, the undersigned, personally appeared Hency Khonau, 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

BRENDA WILLIAMS
Notary Public, State of New York
No. 01W16220025

Qualified in Queens County Commission Expires April 5, 20

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

Buena Vista Associates L.P.:

By: American Yonkers, LLC, its managing general partner

Ву:_____

Print Name: Henry Aboodi

Title: President Date: 12/12/2022

Grantor's Acknowledgment

STATE OF NEW YORK

COUNTY OF NEW OCK S

On the All day of Jerender, in the year 20 202 before me, the undersigned, personally appeared Hence Reports, 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

BRENDA WILLIAMS
Notary Public, State of New York
No.01WI6220025
Qualified in Queens County

Qualified in Queens County Commission Expires April 5, 20

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,

Bv:

Andrew O. Guglielmi, Director

Division of Environmental Remediation

Grantee's Acknowledgment

STATE OF NEW YORK

) ss:

COUNTY OF ALBANY

Notary Pyolic - State of New York

Cheryl A. Salem
Notary Public State of New York
Registration No. 01SA0002177
Qualified in Albany County
My Commission Expires March 3, 21

SCHEDULE "A" PROPERTY DESCRIPTION

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND. SITUATE. LYING AND BEING IN THE CITY OF YONKERS, COUNTY OF WESTCHESTER AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WESTERLY BOUNDARY LINE OF RIVERDALE AVENUE, SAID POINT BEING DISTANT 285.975 FEET, AS MEASURED IN A SOUTHERLY DIRECTION ALONG THE WESTERLY BOUNDARY LINE OF RIVERDALE AVENUE, FROM THE SOUTHEASTERLY END OF A CURVE HAVING A RADIUS OF 20.00 FEET AND AN ARC LENGTH OF 27.164 FEET WHICH CONNECTS THE WESTERLY BOUNDARY LINE OF RIVERDALE AVENUE WITH THE SOUTHERLY BOUNDARY LINE OF PROSPECT STREET AS SHOWN ON THE AFOREMENTIONED MAP;

THENCE SOUTHERLY ALONG THE WESTERLY BOUNDARY LINE OF RIVERDALE AVENUE,

SOUTH 2 DEGREES 49 MINUTES 15 SECONDS WEST 551.516 FEET AND SOUTH 8 DEGREES 05 MINUTES 15 SECONDS WEST 102.554 FEET TO A POINT OF CURVE;

THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 20.00 FEET, A LENGTH OF 30.658 FEET TO A POINT OF TANGENCY ON THE NORTHERLY BOUNDARY LINE OF VARK STREET;

THENCE ALONG THE NORTHERLY BOUNDARY LINE OF VARK STREET NORTH 84 DEGREES 05 MINUTES 05 SECONDS WEST 201.282 FEET AND NORTH 88 DEGREES 18 MINUTES 55 SECONDS WEST 136.471 FEET TO A POINT OF CURVE;

THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 20.00 FEET, A LENGTH OF 31.570 FEET TO A POINT OF TANGENCY ON THE EASTERLY BOUNDARY LINE OF HAWTHORNE AVENUE;

THENCE ALONG THE EASTERLY BOUNDARY LINE OF HAWTHORNE AVENUE NORTH 2 DEGREES 07 MINUTES 35 SECONDS EAST 218.640 FEET AND NORTH 2 DEGREES 40 MINUTES 10 SECONDS EAST 209.936 FEET TO THE SOUTHERLY LINE OF LAND REPUTEDLY OF THE CITY OF YONKERS BOARD OF EDUCATION;

THENCE ALONG SAID LAND REPUTEDLY OF THE CITY OF YONKERS BOARD OF EDUCATION SOUTH 87 DEGREES 10 MINUTES 45 SECONDS EAST 301.442 FEET AND NORTH 2 DEGREES 49 MINUTES 15 SECONDS EAST 215.30 FEET TO THE SOUTHERLY LINE OF LAND REPUTEDLY OF VARK STREET ASSOCIATES:

THENCE ALONG SAID LAND REPUTEDLY OF VARK STREET ASSOCIATES SOUTH 87 DEGREES 10 MINUTES

45 SECONDS EAST 90.00 FEET TO THE WESTERLY BOUNDARY LINE OF RIVERDALE. AVENUE TO THE POINT AND PLACE OF BEGINNING.

SAID PARCEL CONTAINING 194.124 Sq. Ft. / 4.4565 Acres.



Tara L. Phelan

SAUL EWING

Phone: (609) 452-3108 Fax: (609) 452-3122 tara.carver@saul.com

www.saul.com

September 27, 2024

VIA CERTIFIED MAIL (R.R.R.)

Vincent E. Spano, City Clerk City of Yonkers 40 S. Broadway, Room 102 Yonkers, NY 10701

RE: Environmental Easement

Site Name: Buena Vista Apartments

Site No.: C360181

Location of Site: 85 Riverdale Avenue, Westchester County

Yonkers, NY 10701

Dear Sir or Madam:

Attached please find a copy of an environmental easement granted to the New York State Department of Environmental Conservation ("Department")

On September 26, 2024,

by <u>Buena Vista Associates</u>, <u>LP</u>; <u>Buena Vista Houses</u>, <u>Inc.</u> for property at <u>85 Riverdale Avenue</u>, <u>Yonkers</u>, <u>New York</u>, <u>Tax Map No. Section 1, Block 505, Lot 150</u>,

DEC Site No: C360181.

53107445.1

This Environmental Easement restricts future use of the above-referenced property to restricted residential, 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 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 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,

Tara L. Rhelan, Esq.

TPC/ld Encls.