



ONEIDA COUNTY – STATE OF NEW YORK
 SANDRA J. DEPERNO COUNTY CLERK
 800 PARK AVENUE, UTICA, NEW YORK 13501

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



INSTRUMENT #: R2020-000875

Receipt#: 2020988966
 Clerk: GA
 Rec Date: 08/07/2020 03:19:29 PM
 Doc Grp: MR
 Descrip: EASEMENT
 Num Pgs: 10

Party1: OWNER LOFTS AT GLOBE MILL L.P.
 Party2: YORK THE PEOPLE OF THE STATE OF
 NEW
 Town: UTICA

Recording:	
Cover Page	20.00
Number of Pages	50.00
Cultural Ed	14.25
Records Management - Coun	1.00
Records Management - Stat	4.75
TP584	5.00

Sub Total: 95.00

Transfer Tax	
Transfer Tax	0.00

Sub Total: 0.00

Total: 95.00

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

***** Transfer Tax *****
 Transfer Tax #: 131
 Transfer Tax
 Consideration: 0.00

Total: 0.00

Record and Return To:

ELECTRONICALLY RECORDED BY SIMPLIFILE

WARNING***

I hereby certify that the within and foregoing was recorded in the Oneida County Clerk's Office, State of New York. This sheet constitutes the Clerks endorsement required by Section 316 of the Real Property Law of the State of New York.

Sandra J. DePerno
 Oneida County Clerk

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

THIS INDENTURE made this 16th day of July, 2020, between Owner Lofts at Globe Mill, L.P., having an office at 9333 N. Meridian Street, Suite 230, Indianapolis, Indiana 46260 (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 addresses of 811-827 Court Street, 933 Stark Street and 814 Warren Street in the City of Utica, County of Oneida and State of New York, known and designated on the tax map of the County Clerk of Oneida as tax map parcel numbers: Section 318.40 Block 4 Lot 6, Section 318.40 Block 4 Lot 22 and Section 318.40 Block 1 Lot 8, respectively, being the same as that property conveyed to Grantor by deed dated September 12, 2017 and recorded in the Oneida County Clerk's Office in Instrument No. 2017-015499. The property subject to this Environmental Easement (the "Controlled Property") comprises approximately 5.321 +/- acres, and is hereinafter more fully described in the Land Title Survey dated February 18, 2019 and last amended June 18, 2020 prepared by Francis C. Delles, L.L.S. of Millard, McKay & Delles Land Surveyors, LLP, 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: C633084-09-17, 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) 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 Oneida 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 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 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

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.

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.

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

Lofts at Globe Mill, L.P.:

By: [Signature]

Print Name: ROBERT PASGUESI

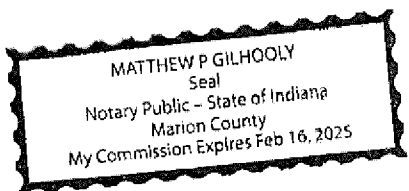
Title: PRESIDENT Date: 6/26/20

Grantor's Acknowledgment

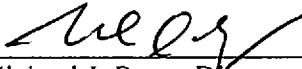
INDIANA
STATE OF ~~NEW YORK~~)
) ss:
COUNTY OF MARION)

On the 26TH day of JUNE, in the year 2020 before me, the undersigned, personally appeared ROBERT PASGUESI 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~~
INDIANA
MATTHEW P. GILHOOLY




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, Director
Division of Environmental Remediation

Grantee's Acknowledgment

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

On the 16th day of July, in the year 2020 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

Caitlin E. Stephen
Notary Public, State of New York
No. 02ST6338529
Qualified in Albany County
Commission Expires Mar. 14, 2024

SCHEDULE "A" PROPERTY DESCRIPTION

All that tract or parcel of land situate in the City of Utica, County of Oneida and State of New York, bounded and described as follows:

Beginning at an iron rod on the southerly highway boundary of Court Street, said iron rod standing at the intersection of the southerly highway boundary of Court Street with the easterly highway boundary of Stark Street; thence S 69° 48' 58" E 290.96 feet along the southerly highway boundary of Court Street to a point; thence S 68° 33' 49" E 82.80 feet continuing along the southerly highway boundary of Court Street to an iron rod standing on the westerly boundary of The Boilermaker Road Race, Inc. (Now or Formerly); thence S 21° 44' 16" W 90.88 feet along the westerly boundary of The Boilermaker Road Race, Inc. to an iron rod standing on the northwesterly boundary of The Boilermaker Road Race, Inc.; thence S 40° 59' 56" W 481.70 feet along the northwesterly boundary of The Boilermaker Road Race, Inc. and then along the northwesterly boundary of Atwater, Inc. (Now or Formerly) to an iron rod standing on the northerly boundary of The City of Utica (Now or Formerly); thence N 60° 00' 04" W 32.35 feet along the northerly boundary of The City of Utica to an iron rod standing on the westerly boundary of The City of Utica; thence S 22° 52' 28" W 176.08 feet along the westerly boundary of The City of Utica to an iron rod standing on the northerly boundary of Gary G. Newman (Now or Formerly); thence N 60° 19' 44" W 50.44 feet along the northerly boundary of Gary G. Newman to an iron rod standing in the westerly boundary of Gary G. Newman; thence S 22° 42' 50" W 128.53 feet along the westerly boundary of Gary G. Newman to an iron rod standing in the northerly highway boundary of Warren Street; thence N 68° 02' 44" W 35.00 feet along the northerly highway boundary of Warren Street to an iron rod standing on the easterly boundary of Maryjean Houghmaster and Dominick R. Aldi, Jr. (Now or Formerly); thence N 22° 49' 24" E 133.24 feet along the easterly boundary of Maryjean Houghmaster and Dominick R. Aldi, Jr. to an iron rod standing on the northerly boundary of Maryjean Houghmaster and Dominick R. Aldi, Jr.; thence N 60° 19' 44" W 40.50 feet along the northerly boundary of Maryjean Houghmaster and Dominick R. Aldi, Jr. to an iron rod standing on the westerly boundary of Maryjean Houghmaster and Dominick R. Aldi, Jr.; thence S 26° 51' 16" W 33.26 feet along the westerly boundary of Maryjean Houghmaster and Dominick R. Aldi, Jr. to an iron rod standing on the northerly boundary of John P. Pannacciulli and Lily H. Prek (Now or Formerly); thence N 61° 02' 44" W 45.80 feet along the northerly boundary of John P. Pannacciulli and Lily H. Prek to an iron rod standing on the easterly boundary of W.R.G.I.T. Properties, Inc. (Now or Formerly); thence N 29° 40' 16" E 8.52 feet along the easterly boundary of W.R.G.I.T. Properties, Inc. to an iron rod standing on the northerly boundary of W.R.G.I.T. Properties, Inc.; thence 60° 19' 44" W 31.50 feet along the northerly boundary of W.R.G.I.T. Properties, Inc. to an iron rod standing on the easterly boundary of Laura Passiatore (Now or Formerly); thence N 29° 40' 16" E 37.00 feet along the easterly boundary of Laura Passiatore to an iron rod standing on the northerly boundary of Laura Passiatore; thence N 61° 19' 01" W 69.62 feet along the northerly boundary of Laura Passiatore to an iron pin standing on the easterly highway boundary of Stark Street; thence N 29° 18' 57" E 666.65 feet along the easterly highway boundary of Stark Street to the point and place of beginning.

The above described parcel containing 5.321 acres (231,772.7 sq. ft.) of land, more or less.