

ERIE COUNTY CLERK'S OFFICE



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Recording Fees:

RECORDING	\$50.00
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COE STATE \$4.75 RM	\$4.75
TP584	\$10.00
MARKOFF FEE	\$0.50

Consideration Amount: 1.00

BASIC MT	\$0.00
SONYMA MT	\$0.00
ADDL MT/NFTA	\$0.00
SP MT/M-RAIL	\$0.00
NY STATE TT	\$0.00
ROAD FUND TT	\$0.00

Total: \$80.50

STATE OF NEW YORK
ERIE COUNTY CLERK'S OFFICE

WARNING – THIS SHEET CONSTITUTES THE CLERK'S ENDORSEMENT REQUIRED BY SECTION 319&316-a (5) OF THE REAL PROPERTY LAW OF THE STATE OF NEW YORK. DO NOT DETACH. THIS IS NOT A BILL.

Michael P. Kearns
Erie County Clerk

AMENDMENT TO ENVIRONMENTAL EASEMENT

This Amendment to Environmental Easement is made as of this 16th day of JANUARY 2025 by and between The People of the State of New York, acting through their Commissioner of the Department of Environmental Conservation ("NYSDEC" or the "Department"), with its headquarters located at 625 Broadway, Albany, New York 12233, and Hayes Place Management Group Inc. (the "Grantor"), having an office at 5150 Lake Shore Road, Hamburg, New York 14075.

RECITALS

1. Grantor is the owner of real property located at 51 Hayes Place, 55 Hayes Place, 75 Hayes Place, 133 Harrison Street, 151 Harrison Street, and 70 Lester Street in the City of Buffalo, County of Erie and State of New York, known and designated on the tax map of the County Clerk of Erie County as tax map parcel numbers: 123.09-4-2, 123.09-4-16.2, 123.09-4-17, 123.38-2-39, 123.38-3-1, and 123.38-2-1.1, being the same as that property conveyed to Grantor, along with certain other lands, by referee's deed dated December 4, 2015 and recorded December 4, 2015 in the Erie County Clerk's Office in Liber 11288 of Deeds at page 9926, being the same property previously conveyed to Grantor's predecessor in interest, Niagara Ceramics Corporation, by the following deeds: (i) deed made by Buffalo China, Inc. to Grantor dated March 12, 2004 and recorded March 16, 2004 in the Erie County Clerk's Office in Liber 11070 of Deeds at page 6585; (ii) deed made by Oneida Food Service, Inc. to Grantor dated March 12, 2004 and recorded March 16, 2004 in the Erie County Clerk's Office in Liber 11070 of Deeds at page 6613; and (iii) deed made by Buffalo China, Inc. to Grantor dated March 12, 2004 and recorded March 16, 2004 in the Erie County Clerk's Office in Liber 11070 of Deeds at page 6624, comprising approximately 9.73 +/- acres, and hereinafter more fully described in the Land Title Survey dated September 20, 2012, and revised on October 17, 2012, November 6, 2012, November 23, 2012, and November 26, 2012, prepared by Lawrence J. Zygaj, PLS. The above-referenced real property (collectively, the "Controlled Property") comprises approximately 9.73 +/- acre and is identified by NYSDEC Site No. C915209.
2. The Department and Grantor's predecessor in interest Niagara Ceramics Corporation entered into that certain Environmental Easement (the "Environmental Easement") dated as of December 3, 2012 and recorded in the Erie County Clerk's Office on December 10, 2012 in Liber 11234 of Deeds at Page 9713. Capitalized terms used herein without definition have the meanings ascribed to them in the Environmental Easement. ✓
3. Pursuant to the Environmental Easement, Grantor's predecessor in interest Niagara Ceramics Corporation granted to the Department rights and interests that run with the land in perpetuity in order to provide an effective and enforceable means of encouraging the reuse and redevelopment of the Controlled Property at a level that has been determined to be safe for certain uses while ensuring the performance of certain maintenance, monitoring and/or operation requirements, and to ensure the restriction of future uses of the land that are inconsistent with the stated purpose.

4. The Environmental Easement contains use restrictions that apply to the Controlled Property. This Amendment to Environmental Easement is made and recorded in order to modify the use restrictions applicable to the Controlled Property, because the Department has determined that, in addition to the uses currently allowed under the Environmental Easement, a portion of the Controlled Property as specified herein may now be used for Commercial purposes as described in 6 NYCRR Part 375-1.8(g)(2)(iii), while the allowed uses on the remainder of the Controlled Property will remain unchanged.
5. Pursuant to Section 8 of the Environmental Easement, the Department is using this Amendment to Environmental Easement to amend the Environmental Easement in the manner prescribed by Article 9 of the Real Property Law.

AMENDMENT TO ENVIRONMENTAL EASEMENT

- A. The above recitals are hereby incorporated into this Amendment to Environmental Easement.
- B. The Department and Grantor agree that paragraph 2.A(1) of the Environmental Easement is hereby amended so that it reads as follows:

- (1) The entire Controlled Property may be used for:

Industrial as described in 6 NYCRR Part 375-1.8(g)(2)(iv)

and further, the portion of the Controlled Property described in Schedule "B" and identified in said schedule as "Portion of Controlled Property Where Commercial Use Is Allowed" 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)**

The Department and Grantor further agree that paragraph 2.B of the Environmental Easement is hereby amended so that it reads as follows:

No portion of the Controlled Property shall be used for Residential or Restricted Residential purposes, and in addition, no portion of the Controlled Property shall be used for Commercial purposes except that portion of the Controlled Property located within the boundaries described in Schedule "B". The engineering controls referenced in this Environmental Easement may not be discontinued without an amendment or extinguishment of this Environmental Easement.

The purpose of these amendments to paragraphs 2.A(1) and 2.B of the Environmental Easement is to add Commercial as an allowed use category for the portion of the Controlled Property described in Schedule "B," in addition to the already-allowed Industrial use category, while leaving the allowed uses unchanged (i.e., limited to only Industrial use) on the remainder of the Controlled Property.

By: Andrew O. Guglielmi
Andrew O. Guglielmi, Director
Division of Environmental Remediation

[illegible]

Cheryl A. Salem
Notary Public - 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, 2027

SCHEDULE "B"
Portion of Controlled Property Where Commercial Use Is Allowed

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, being part of Lot No. 18, Township 10, Range 7 of the Buffalo Creek Reservation, bounded and described as follows:

COMMENCING at the intersection of the westerly line of Bailey Avenue, as now laid out, and the northeasterly line of Lot No. 15;

THENCE westerly along the northerly lines of Lot Nos. 15 & 18, a distance of 766.81 feet;

THENCE S 27°50'31" W, a distance of 26.64 feet to the point of beginning;

THENCE N 62°07'33" W, a distance of 342.50 feet;

THENCE S 27°52'27" W, a distance of 107.98 feet;

THENCE S 62°03'06" E, a distance of 342.58 feet;

THENCE N 27°50'31" E, a distance of 108.42 feet to the point of beginning, containing 0.851 acres of land more or less.