

AMENDMENT TO ENVIRONMENTAL EASEMENT

This Amendment to Environmental Easement is made as of this 25th day of May 2023 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 South Buffalo Development, LLC (the "Grantor"), having an office at 333 Ganson Street, Buffalo, New York 14203.

RECITALS

1. Grantor is the owner of real property located at the address of 229 Elk, 145 Prenatt, and 5 Babcock in the City of Buffalo, Erie County and State of New York, known and designated on the tax map of the County Clerk of Erie as tax map parcel numbers: Section 122.12, Block 1, Lots 30, 35, and 36, being the same as that property conveyed to Grantor by deed dated February 5, 2009 and recorded on February 17, 2009 in the Erie County Clerk's Office in Book 11155, Page 6551 [229 Elk] and by deed dated January 29, 2009 and recorded on February 9, 2009 in the Erie County Clerk's Office in Book 11155, Page 2785 [145 Prenatt] and by deed dated February 5, 2009 and recorded February 17, 2009 in the Erie County Clerk's Office in Book 11155, Page 6538 [5 Babcock], comprising approximately 6.027 +/- acres (the "Controlled Property"). The Controlled Property is identified by NYSDEC Site No. C915231; and
2. The Department and Grantor entered into that certain Environmental Easement (the "Environmental Easement") dated as of October 28, 2010 and recorded in the Erie County Clerk's Office on November 3, 2010 in Liber 11191, Page 0822. Capitalized terms used herein without definition have the meanings ascribed to them in the Environmental Easement.
3. Pursuant to the Environmental Easement, Grantor 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, the Controlled Property may now be used for Restricted Residential as described in 6 NYCRR Part 375-1.8(g)(2)(ii).
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.

FILED

SEP 15 2023

ERIE COUNTY
CLERK'S OFFICE

c

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 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)**

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

The Controlled Property shall not be used for Residential purposes as described in 6 NYCRR Part 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.

The purpose of these amendments to paragraphs 2.A(1) and 2.B of the Environmental Easement is to add Restricted Residential as an allowed use category for the Controlled Property, in addition to the already-allowed Commercial and Industrial use categories.

- C. All other terms of the Environmental Easement shall remain in effect.
- D. This Amendment to Environmental Easement inures to and binds the parties hereto and their respective successors and assigns.
- E. This Amendment to Environmental Easement shall be governed by and interpreted in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, Grantor has caused this Amendment to Environmental Easement to be signed in its name.

South Buffalo Development, LLC:

By: _____

Print Name: Jon M. Williams

SBD Holdings I, Inc.
Manager and Member

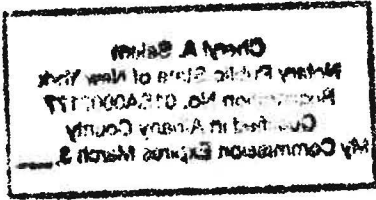
Title: of South Buffalo Development, LLC Date: 4/19/23

Grantor's Acknowledgment

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

On the 19th day of April, in the year 20 23, before me, the undersigned, personally appeared Jon M. Williams, 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.

Nancy L. Mazur
Notary Public - State of New York



NANCY L. MAZUR
Notary Public, State of New York
Qualified in Erie County No. 1765930
My Commission Expires 11 30, 2025

THIS AMENDMENT TO 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,

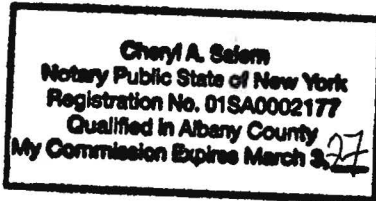
By: Andrew Guglielmi
Andrew O. Guglielmi, Director
Division of Environmental Remediation

Grantee's Acknowledgment

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

On the 25 day of May, in the year 2023 before me, the undersigned, personally appeared Andrew O. Guglielmi, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity as Designee of the Commissioner of the State of New York Department of Environmental Conservation, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Cheryl A. Salem
Notary Public - State of New York



MICHAEL P. KEARNS, ERIE COUNTY CLERK
REF:

DATE: 9/15/2023
TIME: 1:51:25 PM
RECEIPT: 23126171

KNOR GROUP PLLC
ACCOUNT #: 8935

ITEM - 01 MTP
RECD: 9/15/2023 1:56:48 PM
FILE: 2023159396 BK/PD D 11421/9282
Deed Sequence: TT2023003261
SOUTH BUFFALO DEVELOPMENT LLC
Recording Fees 80.50
TP584 10.00
Subtotal 90.50

ITEM - 02 MTP
RECD: 9/15/2023 1:56:48 PM
FILE: 2023159397 BK/PD D 11421/9290
Deed Sequence: TT2023003262
SOUTH BUFFALO DEVELOPMENT LLC
Recording Fees 65.50
TP584 10.00
Subtotal 75.50

TOTAL DUE \$166.00
PAID TOTAL \$166.00
PAID CHECK \$166.00
***** 166.00