

MICHAEL P. KEARNS, ERIE COUNTY CLERK
REF:

DATE: 12/23/2024

TIME: 2:18:00 PM

RECEIPT: 24202569 - DUPLICATE -

HODGSON RUSS LLP BOX 74 - INTERNET
ACCOUNT #: 1915

DUPLICATE RECEIPT

ITEM - 01 MTP

RECD: 12/23/2024 2:20:38 PM

FILE: 2024222042 BK/PG D 11440/2952

Deed Sequence: TT2024010191

SILOS AT ELK STREET LLC

PEOPLE OF THE STATE OF NEW YORK (THE)

Recording Fees	60.50
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TP584	10.00
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Subtotal	70.50
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TOTAL DUE	\$70.50
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PAID TOTAL	\$70.50
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PAID ESCROW	\$70.50
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REC BY: Sharon B
COUNTY RECORDER

xx 74
JCS

county: Erie

Site No: C 915309

Index: C915309-01-17

AMENDMENT TO ENVIRONMENTAL EASEMENT

This Amendment to Environmental Easement is made as of this 13th day of December 2024, 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 Silos at Elk Street, LLC (the “Grantor”), having an office at 740 Seneca Street, Buffalo, New York 14210.

RECITALS

1. Grantor is the owner of real property located at the address of 50 Elk 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 number: Section 122.42, Block 2, Lot 63.11, being the same as that property conveyed to Grantor by deed dated September 20, 2016 and recorded in the Erie County Clerk’s office in Liber 11303, Page 986.
2. The Department and Grantor entered into that certain Environmental Easement (the “Environmental Easement”) dated as of January 22, 2018 and recorded in the Erie County Clerk’s Office on February 7, 2018 in Liber 11325, Page 3114. Capitalized terms used herein without definition have the meanings ascribed to them in the Environmental Easement. The real property controlled by the Environmental Easement is defined therein as the “Controlled Property.”
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 building currently existing on the Controlled Property may be used for Restricted Residential as described in 6 NYCRR Part 375-1.8(g)(2)(ii), 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.

FILED
DEC 23 2024
ERIE COUNTY
CLERK'S OFFICE

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:

The portion of the Controlled Property identified in Schedule A as “Track 4 Commercial Area” 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), and the portion of the Controlled Property described in

Schedule A as "Track 4 Restricted-Residential Area" may be used for Restricted Residential as described in 6 NYCRR Part 375-1.8(g)(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). In addition to the foregoing, and notwithstanding the contents of Schedule A hereof, the +/- 0.28-acre building that exists on the Controlled Property as of the date of this Environmental Easement may be used for Restricted Residential as described in 6 NYCRR Part 375-1.8(g)(ii).

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

The portion of the Controlled Property identified in Schedule A as "Track 4 Commercial Area" shall not be used for Residential or Restricted Residential purposes as defined in 6 NYCRR 375-1.8(g)(2)(i) and (ii), the portion of the Controlled Property identified in Schedule A herein as "Track 4 Restricted-Residential Area" 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. Notwithstanding the foregoing sentence or the contents of Schedule A hereof, the +/- 0.28 acre building that exists on the Controlled Property as of the date of this Environmental Easement may be used for Restricted Residential as described in 6 NYCRR Part 375-1.8(g)(ii).

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 existing on-site building, in addition to the already-allowed uses, while leaving the allowed use categories unchanged on the remainder of the Controlled Property.

- 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.

Silos at Elk Street, LLC:

By: 

Print Name: SHAWN WRIGHT

Title: PARTNER Date: 11/25/24

Grantor's Acknowledgment

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

On the 25th day of November in the year 20 24 before me, the undersigned, personally appeared Shawn Wright, 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.

Erin E. Galloway
Notary Public - State of New York

ERIN E. GALLOWAY
Notary Public in the State of New York
ERIE MONROE COUNTY
Commission Expires May 31, 2027

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 13th day of December, in the year 2024 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

Cheryl A. Salem
Notary Public State of New York
Registration No. 01SA0002177
Qualified in Albany County
My Commission Expires March 3, 2027



Recording Office Time Stamp

**Real Estate Transfer Tax Return
For Public Utility Companies'
and Governmental Agencies'
Easements and Licenses**

This form may only be used by public utility companies regulated by the Public Service Commission and governmental agencies for the recording of easements and licenses where the consideration for the grant of such easement or license is \$500.00 or less.

Name of grantee (public utility company or governmental agency)
New York State Department of Environmental Conservation

Federal employer identification number
(if applicable) 14-6013200

Address of grantee
625 Broadway, Albany, New York, 12233

Name and telephone number of person to contact
Gregory Scholand, 716-851-7236

Name(s) of Grantor Of Easement or License	Address of Property	Consideration Given For Easement or License
1. Silos at Elk Street, LLC	50 Elk Street, Buffalo, NY	\$0
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		

If more than fifteen conveyances are to be recorded, attach a schedule of such other conveyances.

Signature of Grantee

I certify that the grantee is a public utility regulated by the Public Service Commission or is a governmental agency and the grantee of the easements and/or licenses above; that it is true to the best knowledge of the grantee that the granting of each such easement and/or license is exempt from Real Estate Transfer Tax imposed by Article 31 of the Tax Law by reason that each such conveyance is for a consideration of five hundred dollars or less and/or the conveyance is being made to a governmental agency.

New York State Department of Environmental Conservation

Name of grantee

Signature of partner, officer of corporation, governmental official, etc.

Director of Environmental Remediation

Title