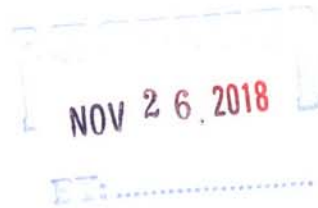




November 20, 2018

Sent Via USPS First Class Mail

Bradford D. Burns, Esq.
NYS Department of Environmental Conservation
Office of General Counsel
625 Broadway, 14th Floor
Albany, New York 12233



**Re: Environmental Easement – 166 Chandler Street, Buffalo, New York 14207
SBL No.: 77.84-4-5**

Dear Mr. Burns:

Enclosed please find a stamped copy of the environmental easement for 166 Chandler which has been recorded with the Erie County Clerk as well as a filing receipt as proof of recording. Also enclosed please find a copy of the notice to municipality along with the certified mail signed receipt. If you require anything further at this time please feel free to call me. Thank you.

Sincerely,

HOPKINS SORGI & ROMANOWSKI PLLC

Ryan P. McCarthy, Esq.

Enc.



November 13, 2018

Jason Paananen
Director of Environmental Affairs
901 City Hall
Buffalo, NY 14202

**Re: Environmental Easement- 166 Chandler Street, Buffalo NY 14207 (SBL No. 77.84-4-5)
HSR File No. 30048.02**

Dear Mr. Paananen:

Attached please find a copy of an environmental easement granted to the New York State Department of Environmental Conservation ("Department") on November 7, 2018, by 166 Chandler Holdings LLC for property at 166 Chandler Street, Buffalo, NY 14207, SBL No. 77.84-4-5, DEC Site No: C915320.

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

HOPKINS SORGI & ROMANOWSKI PLLC

Attorneys at Law
26 Mississippi Street, Suite 400 • Buffalo, New York 14203
Office: 716-427-7100 • Fax: 716-424-2171 • www.hsr-legal.com

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/60058.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.

Sincerely,

HOPKINS SORGI & ROMANOWSKI PLLC



Ryan P. McCarthy, Esq.

Enc.

HOPKINS SORGI & ROMANOWSKI PLLC

Attorneys at Law

26 Mississippi Street, Suite 400 • Buffalo, New York 14203
Office: 716-427-7100 • Fax: 716-424-2171 • www.hsr-legal.com

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

THIS INDENTURE made this 7th day of November, 2018, between Owner(s) 166 Chandler Holdings, LLC, having an office at 489 Ellicott Street #3, Buffalo, New York 14203, County of Erie, State of New York (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 166 Chandler 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 as tax map parcel numbers: Section 77.84 Block 4 Lot 5, being the same as that property conveyed to Grantor by deed dated February 4, 2016 and recorded in the Erie County Clerk's Office in Liber and Page 11292/2937. The property subject to this Environmental Easement (the "Controlled Property") comprises approximately 0.490 +/- acres, and is hereinafter more fully described in the Land Title Survey dated October 3, 2018 prepared by Mark J. Andrews, L.L.S., 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 Brownfield Cleanup Agreement Index Number: C915320-07-17, 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 Erie 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;

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 privity 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 Grantor 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 of time to cure, or any extensions granted by Grantee, the Grantee shall notify Grantor of 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 of the terms contained herein shall not be deemed a waiver of any such term nor bar any enforcement rights.

6. Notice. 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: C915320
Office of General Counsel
NYSDEC
625 Broadway
Albany New York 12233-5500

With a copy to: Site Control Section
Division of 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 of receiving and communicating notices and responses to requests for approval.

7. Recordation. Grantor shall record this instrument, within thirty (30) days of execution of 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. 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.

Remainder of Page Intentionally Left Blank

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

166 Chandler Holdings, LLC:

By: [Signature]

Print Name: Rocco Termini

Title: Managing member Date: 10-30-18

Grantor's Acknowledgment

STATE OF NEW YORK)
) ss:
COUNTY OF New York)

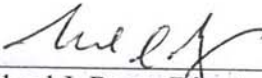
On the 30th day of October, in the year 2018, before me, the undersigned, personally appeared Rocco Termini, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they 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

NANCY E CLARK
NOTARY PUBLIC-STATE OF NEW YORK
No 01CL6308963
Qualified in New York County
My Commission Expires 08-04-2022

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,

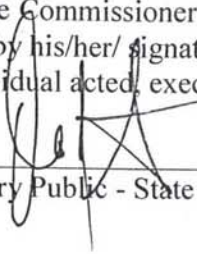
By:


Michael J. Ryan, Director
Division of Environmental Remediation

Grantee's Acknowledgment

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

On the 7th day of November, in the year 2018, 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

David J. Chiusano
Notary Public, State of New York
No. 01CH5032146
Qualified in Schenectady County
Commission Expires August 22, 2022

MICHAEL P. KEARNS, ERIE COUNTY CLERK
REF:

DATE: 11/13/2018
TIME: 11:14:58 AM
RECEIPT: 18202203 - DUPLICATE -

HOPKINS SORGI & ROMANOWSKI PLLC- BOX 460
ACCOUNT #: 9074

DUPLICATE RECEIPT

ITEM - 01 785
RECD: 11/13/2018 11:19:11 AM
FILE: 2018225643 BK/PG D 11337/2066
Deed Sequence: TT2018008130
166 CHANDLER HOLDINGS LLC
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Recording Fees 90.00
TP584 10.00

Subtotal 100.00

TOTAL DUE	
PAID TOTAL	\$100.00
PAID ESCROW	\$100.00
	\$100.00

REC BY: Sharon
COUNTY RECORDER

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

Jason Paananen
Director of Environmental Affairs
901 City Hall
Buffalo, New York 14202



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Article Number (Transfer from service label)

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PS Form 3811, July 2015 PSN 7530-02-000-9003

COMPLETE THIS SECTION ON DELIVERY

- A. Signature ☒ Agent ☐ Addressee
 X *Handwritten Signature*
 B. Received by (Printed Name) *W. A. Paananen* C. Date of Delivery
 1. Is delivery address different from item 1? ☐ Yes
 If YES, enter delivery address below: ☐ No

2. Service Type ☐ Priority Mail Express®
☐ Adult Signature ☐ Registered Mail™
☐ Adult Signature Restricted Delivery ☐ Registered Mail Restricted Delivery
☐ Certified Mail® ☒ Return Receipt for Merchandise
☐ Certified Mail Restricted Delivery ☐ Signature Confirmation™
☐ Collect on Delivery ☐ Signature Confirmation Restricted Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
☐ Insured Mail Restricted Delivery

Domestic Return Receipt

USPS TRACKING#



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United States
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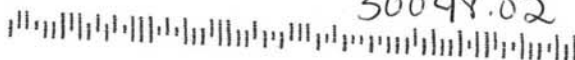
• Sender: Please print your name, address, and ZIP+4® in this box•



HOPKINS SORGI & ROMANOWSKI PLLC
Attorneys at Law
26 Mississippi Street, Suite 400
Buffalo, NY 14203

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<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$

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Jason Paananen, Director of Environmental Affairs
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901 City Hall
City, State, ZIP+4[®]
Buffalo, New York 14202

PS Form 3800, April 2015 PSN 7530-02-000-9047

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