

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of the implementation of
a Voluntary Cleanup Agreement for
Dalewood I Shopping Center, Greenburgh
Westchester County, New York
by

AMENDMENT TO
VOLUNTARY
CLEANUP AGREEMENT

Index No.: W3-1181-14-04
Site No. V00457-3

Heritage SPE, LLC
"PRP-Volunteer"

WHEREAS, the New York State Department of Environmental Conservation (the "Department") and Heritage SPE, LLC (the "PRP-Volunteer" or "Volunteer") with an address at c/o Centro Watt, 131 Dartmouth Street, Boston, MA 02116, executed a Voluntary Cleanup Agreement for a portion of the Dalewood I Shopping Plaza located on North Central Avenue, Hartsdale, Westchester County, New York, Site No. V00457-3 (the "Site"), Index No. W3-0892-01-07, dated February 6, 2002 (the "Agreement"). A copy of the Agreement is attached as Exhibit "A"; and

WHEREAS, in December 2006, the Volunteer transferred title and control of property that includes the Site to Centro Heritage SPE 6 LLC with an address at c/o Centro Watt, 131 Dartmouth Street, Boston, MA 02116. In November 2011, "Centro Heritage SPE 6 LLC changed its name from Centro Heritage SPE 6 LLC to Brixmor SPE 6 LLC"; and

WHEREAS, based on its review of groundwater data submitted to the Department in July 2013 and other relevant documents regarding the Site, the Department determined that the remedial actions performed on the Site will not allow for an unrestricted use as defined in 6 NYCRR Section 375-1.8(g); and

WHEREAS, in or about March 2013, the Department determined that the description of the Site in the Agreement was no longer valid. By letter dated August 1, 2013, the Department formally requested that the Volunteer submit documentation regarding the exact size and location of the Site in order for the Volunteer to obtain the appropriate release and covenant not to sue letter upon completion of the remedial program for the Site; and

WHEREAS, in February 2014, the Volunteer agreed to an amendment of the Agreement to change the contemplated use of the Site from unrestricted use to commercial use and it proposed new boundaries for the Site. In or about February 3, 2014, the Department confirmed that the Volunteer's proposed depiction of the Site was acceptable to the Department.

NOW, THEREFORE, IN CONSIDERATION OF AND IN EXCHANGE FOR THE MUTUAL COVENANTS AND PROMISES, THE PARTIES AGREE TO THE FOLLOWING:

1. Subparagraph I.A of the Agreement is hereby revised to read as follows:

"Contemplated Use": Commercial as described in 6 NYCRR Part 375-1.8(g)(2).

2. Subparagraph I.C of the Agreement is hereby revised to read as follows:

“Site”: A portion of the Dalewood I Shopping Plaza located on North Central Avenue, Hartsdale, Westchester County, New York comprising of approximately 4.932 acres as delineated by a metes and bounds description for the Site, which is attached as Exhibit “B” and is depicted (referred to as the “Remediation Site”) on the Amended Site Boundary Map, which is attached as Exhibit “C”.

3. This amendment to the Agreement shall constitute the entire Agreement between the parties with all the terms and conditions of the Agreement as herein modified, remaining in full force and effect; and

4. The effective date of the amendment to this Agreement shall be the date it is executed by the Commissioner or the Commissioner’s designee.

DATED:

AUG 27 2014

JOSEPH J. MARTENS,
COMMISSIONER
NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

By:



Robert Schick, Director
Division of Environmental Remediation

CONSENT BY VOLUNTEER

Volunteer hereby consents to the issuing and entering of this Agreement, waives Volunteer's right to a hearing herein as provided by law, and agrees to be bound by this Agreement.

Heritage SPE, LLC

By: _____

Title: Executive Vice President

Date: August 15, 2014

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

On the 15th day of August in the year 2014, before me, the undersigned,

personally appeared Steven Siegel,
(Full name)

personally known to me who, being duly sworn, did depose and say that he/she/they reside at

Business Address - 420 Lexington Avenue, 7th Fl, New York, NY 10170
(Full mailing address)

and that he/she/they is (are) the Executive Vice President
(President or other officer or director or attorney in fact duly appointed)

of the Heritage SPE, LLC,
(Full legal name of corporation)

the corporation described in and which executed the above instrument; and that he/she/they

signed his/her/their name(s) thereto by the authority of the board of directors of said corporation.

Lisa M. Quiroga
Notary Public, State of New York

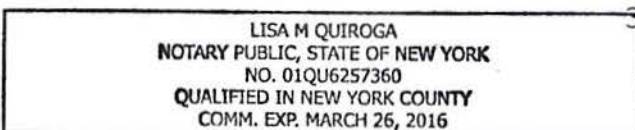


EXHIBIT "A"
Agreement

EXHIBIT "B"
Metes and Bounds description for the Site



Lehr Land Surveyors Land Surveying & Planning

Suite 6
116 Salina Street
Liverpool, New York 13088
315-451-3333
FAX: 315-451-3392
EMAIL: LehrSurveyors@aol.com

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Remediation Legal Description
Central Park and Dalewood Drive
Hartsdale, Westchester County, NY

February 11, 2014
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RE: Dalewood Shopping Center

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Greenburgh, County of Westchester and State of New York and being more particularly described as follows:

BEGINNING at the most southeasterly corner of land owned by Centro Heritage SPE 6 LLC as recorded in the Westchester County Clerk's Office as Control No.471000699 and the northwesterly road boundary of Central Park Avenue (various widths):

thence S 44° 57' 33" W., along said road boundary a distance of **230.35 feet** to a point;

thence N 44° 53' 03" W., a distance of **79.96 feet** to a point;

thence S 45° 06' 57" W., a distance of **260.88 feet** to a point;

thence N 45° 02' 27" W., a distance of **74.06 feet** to a point;

thence S 44° 57' 33" W., a distance of **155.92 feet** to a point;

thence N 45° 02' 27" W., a distance of **43.32 feet** to a point;

thence N 17° 57' 20" E., a distance of **35.07 feet** to a point;

thence N 45° 02' 27" W., a distance of **185.00 feet** to a point on a curve;

thence on a curve to the right having a **radius of 3313.00 feet** a arc distance of **82.36 feet** to a point of tangency;

thence N 44° 57' 33" E., a distance of **385.51 feet** to a point;

Remediation Legal Description
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thence N 11° 30' 33" E., a distance of 177.16 feet to a point;

thence S 45° 02' 27" E., a distance of 497.66 feet to the point of beginning.

Containing 214,830 square feet or 4.932 acres of land more or less.

The hereinbefore described parcel of land is subject to any and all easements and/or rights-of-ways of record.

EXHIBIT "C"
Site Boundary Map

