

AMENDMENT TO ENVIRONMENTAL EASEMENT

This Amendment to Environmental Easement is made as of this ~~16~~¹⁴ day of August 2017, 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 Destiny USA Real Estate, LLC and Destiny USA Land Company, LLC (collectively the “Grantor”) with its offices located at The Clinton Exchange, 4 Clinton Street, Syracuse, New York 13202.

RECITALS

1. Grantor, Destiny USA Real Estate, LLC, is the owner of real property located at the address of 311-71 Hiawatha Boulevard West in the City of Syracuse, County of Onondaga and State of New York, known and designated on the tax map of the County Clerk of Onondaga as tax map parcel numbers: Section 116 Block 02 Lot 01.0, being the same as that property conveyed to Grantor by deed dated June 14, 2016 and recorded in the Onondaga County Clerk's Office in Liber and Page 5376/767.
2. Grantor, Destiny USA Land Company, LLC, is the owner of real property located at the address of 550 Solar Street in the City of Syracuse, County of Onondaga and State of New York, known and designated on the tax map of the County Clerk of Onondaga as tax map parcel numbers: Section 116 Block 02 Lot 08.1, being a portion of the property conveyed to Grantor by deed dated June 27, 2013 and recorded in the Onondaga County Clerk's Office in Liber and Page 5243/376.
3. Grantor, Destiny USA Land Company, LLC, is the owner of real property located at the address of 540 Solar Street in the City of Syracuse, County of Onondaga and State of New York, known and designated on the tax map of the County Clerk of Onondaga as tax map parcel numbers: Section 116 Block 02 Lot 07.0, being a portion of the property conveyed to Grantor by deed dated June 27, 2013 and recorded in the Onondaga County Clerk's Office in Liber and Page 5243/376.
4. Grantor, Destiny USA Land Company, LLC, is the owner of real property which was formerly part of the street known as Old Hiawatha Boulevard in the City of Syracuse, County of Onondaga and State of New York, being a portion of the property conveyed by the State of New York to Grantor by Letters Patent dated October 15, 2015 and recorded in Book of Patents No. 116 at Page 1.
5. The property referenced above comprises approximately 22.843 +/- acres combined, and is hereinafter more fully described in Exhibit A.
6. The Department and Grantor entered into that certain Environmental Easement (“Easement Agreement”) dated as of June 7, 2017 and recorded in the office of the Onondaga County Clerk on June 21, 2017 in Liber 05430, Page 0501. Capitalized terms used herein without definition have the meanings ascribed to them in the Environmental Easement Agreement.

7. Pursuant to Section 1, 2, 3, 4, and 5 of the Easement Agreement, Grantor granted 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 a specific use while ensuring the performance of maintenance, monitoring or operation requirements; and to ensure the potential restriction of future uses of the land that are inconsistent with the stated purpose.
8. The Easement Agreement dated June 7, 2017 erroneously stated at Paragraph 2(A)(1) that the Controlled Property was only to 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)”, and may only be used consistent with controls set out in that Section 2(A) of the Easement Agreement.
9. This Amendment to Environmental Easement is filed solely in order to correct a mutual mistake between the Department and Grantor relating to the allowed uses of the Controlled Property in Paragraph 2(A)(1) and prohibited uses of the Controlled Property in Paragraph 2(B) to that Environmental Easement dated June 7, 2017 and recorded in the office of the Onondaga County Clerk on June 21, 2017 in Liber 05430, Page 0501.
10. Pursuant to Section 8 of the Easement Agreement, the Department agrees to amend the Easement Agreement in the manner prescribed by Article 9 of the Real Property Law.

AMENDMENT OF ENVIRONMENTAL EASEMENT

- A. The above recitals are hereby incorporated into this Amendment of Environmental Easement.
- B. The Department and Grantor hereby agree that Paragraph 2(A)(1) of the Environmental Easement is hereby amended to read as follows:
 - (1) The Controlled Property 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)
- C. The Department and Grantor hereby agree that Paragraph 2(B) of the Environmental Easement is hereby amended to read as follows:
 - (B) The Controlled Property shall not be used for Residential or Restricted Residential purposes as defined in 6NYCRR 375-1.8(g)(2)(i) and (ii), and the above-stated engineering controls may not be discontinued without an amendment or extinguishment of this Environmental Easement.

- D. All other terms of the June 7, 2017 Environmental Easement shall remain in effect.
- E. This Amendment of Environmental Easement inures to and binds the parties hereto and their respective successors and assigns.
- F. This Amendment of 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.

Destiny USA Land Company, LLC:

By: Pyramid Company of Onondaga, its sole member and manager

By:  _____

Print Name: Bruce A. Kenan

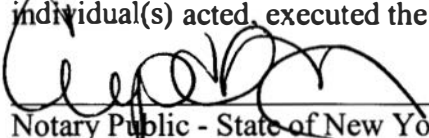
Title: Executive Committee Member

Date: August 7, 2017


Grantor's Acknowledgment

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

On the 7th day of August, in the year 2017, before me, the undersigned, personally appeared Bruce A. Kenan, 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.



Notary Public - State of New York

CRYSTAL J. MEDER
Notary Public, State of New York
No. 01ME6217068
Qualified in Onondaga County
Commission Expires February 8, 2017 

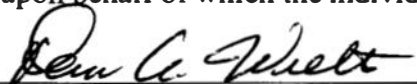
THIS AMENDMENT OF THE ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY THE PEOPLE OF THE STATE OF NEW YORK, Acting By and Through the Department of Environmental Conservation as Designee of the Commissioner,

By: 
Robert W. Schick, Director
Division of Environmental Remediation

Grantee's Acknowledgment

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

On the 16th day of August, in the year 2017, before me, the undersigned, personally appeared Robert W. Schick, 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.


Notary Public - State of New York

Drew A. Wellette
Notary Public, State of New York
Qualified in Schenectady Co.
No. 01WE6089074
Commission Expires 03/17/ 2019

SCHEDULE "A" PROPERTY DESCRIPTION

LEGAL DESCRIPTION
Brownfield Cleanup Program
Oil City/Carousel Center – Site 7
DEC Site#: C734135

All that certain tract, piece or parcel of land, situate in the City of Syracuse, County of Onondaga, State of New York, lying generally northeasterly of Solar Street and generally southeasterly of West Hiawatha Boulevard and being more particularly bounded and described as follows:

BEGINNING at the point of intersection with the northeasterly margin of Solar Street with the division line between the lands now or formerly of the City of Syracuse Industrial Development Agency (S.I.D.A.) as described in Book 5029 of Deeds at Page 571 on the southeast and the lands now or formerly of Destiny USA Land Company, LLC as described as Parcel G in Book 5243 of Deeds at Page 376 on the northwest;

Thence North 50 deg. 26 min. 30 West, along the northeasterly margin of Solar Street and its prolongation thereof, 1,160.29 feet to its intersection with the former northwesterly street margin of Old Hiawatha Boulevard;

Thence along the former northwesterly margin of Old Hiawatha Boulevard and the former northwesterly margin of Free Street, in part by each, the following two (2) courses and distances:
1) North 40 deg. 26 min. 20 East, 783.55 feet to a point; and
2) North 28 deg. 12 min. 26 East, 138.95 feet to the southwest corner of lands of the People of the State of New York as shown on Appropriation Map 1400 Parcel 1830;

Thence along the southwesterly line of Map 1400 Parcel 1830 the following three (3) courses and distances:

1) South 47 deg. 08 min. 19 East, 95.53 feet to a point; thence
2) South 61 deg. 46 min. 31 East, 7.16 feet to a point; and
3) South 42 deg. 33 min. 21 sec. East, 28.25 feet to its intersection with the division line between the lands now or formerly of Destiny USA Real Estate, LLC as described in Book 5376 of Deeds at Page 767 on the southwest and the lands now or formerly of the City of Syracuse (reputed owner) known as #301 Hiawatha Boulevard West Rear having City of Syracuse Tax Parcel Number 116.00-02-02 on the northeast;

Thence along Said division line the following three (3) courses and distances:

1) South 07 deg. 51 min. 23 East, 96.80 feet to a point; thence

- 2) North 82 deg. 08 min. 37 East, 52.80 feet to a point; and
- 3) North 07 deg. 51 min. 23 sec. West, 31.00 feet to its intersection with the southwesterly line of lands of the People of the State of New York as shown on Appropriation Map 1400 Parcel 1830;

Thence along the southwesterly line of Map 1400 Parcel 1830 the following twelve (12) courses and distances:

- 1) South 46 deg. 36 min. 04 sec. East, 66.69 feet to a point; thence
- 2) South 47 deg. 28 min. 28 sec. East, 99.72 feet to a point; thence
- 3) South 48 deg. 53 min. 33 sec. East, 62.11 feet to a point; thence
- 4) South 46 deg. 06 min. 12 sec. East, 75.06 feet to a point; thence
- 5) South 40 deg. 59 min. 18 sec. East, 99.03 feet to a point; thence
- 6) South 37 deg. 54 min. 46 sec. East, 81.52 feet to a point; thence
- 7) South 38 deg. 05 min. 04 sec. East, 50.43 feet to a point; thence
- 8) South 40 deg. 16 min. 09 sec. East, 50.31 feet to a point; thence
- 9) South 15 deg. 31 min. 57 sec. East, 39.89 feet to a point; thence
- 10) South 41 deg. 05 min. 58 sec. East, 154.40 feet to a point; thence
- 11) South 41 deg. 06 min. 11 sec. East, 71.70 feet to a point; and
- 12) South 43 deg. 48 min. 47 sec. East, 45.42 feet to its intersection with the division line between the said lands now or formerly of Destiny USA Land Company, LLC as described as Parcel G in Book 5243 of Deeds at Page 376 on the northwest, and the lands now or formerly of Destiny USA Land Company, LLC as described as Parcel F in Book 5243 of Deeds at Page 376 and the first said lands of S.I.D.A. as described in Book 5029 of Deeds at Page 571, in part by each, on the southwest;

Thence along said division line the following two (2) courses and distances:

- 1) along the arc of a curve to the right having a radius of 410.40 feet, length of 253.77 feet, and chord of South 10 deg. 55 min. 12 sec. West 249.75 feet to a point; and
- 2) South 43 deg. 34 min. 10 sec. West, 552.84 feet to the point or place of beginning.

Containing 22.843 acres of land more or less.