

## DECLARATION OF EASEMENT AND CONDITIONAL OFFER OF EASEMENT

dated the \_\_\_\_\_ day of \_\_\_\_\_, 2017

WHEREAS **Beacon 248 Development LLC**, a New York Limited Liability Company, (hereinafter “**Beacon 248**”) having its principal office at 104 Rochelle Avenue, Rochelle Park, NJ 07662 is the owner of Parcel 1B on a certain map filed in the Dutchess County Clerk’s Office as Map No.10970 (“the Filed Map”) having acquired the same by Deed from Joseph Rendeiro recorded June 20, 2006 in the Dutchess County Clerk’s Office as Document #02-2006-4859, and

WHEREAS the Filed Map created two lots designated as Parcel 1A and Parcel 1B, and

WHEREAS said Filed Map contained certain Notes incorporating conditions which are binding on the owners of both lots, including a requirement that prior to the issuance of a Certificate of Occupancy for any building, a secondary means of access for emergency purposes which has been approved by the City of Beacon shall be constructed by the Applicant and shall be shown on a revised version of this plan (Note 11 of the Filed Map) and a further requirement that prior to the issuance of any building permit for any building on the plat, the lot owner must demonstrate suitable access, and that said access must be constructed before any Certificate of Occupancy would be issued (Note 12 of the Filed Map), and

WHEREAS Note 8 on the Filed Map further required that the owners of both lots have both the right and responsibility to maintain all access easements on Parcel 1B, including the responsibility to maintain accessibility over said access easement, and

WHEREAS, the Filed Map depicted an ACCESS EASEMENT in favor of Parcel 1A over Parcel 1B for both regular and emergency vehicular and pedestrian access, and required that both

parcels shall have the responsibility to maintain said easement for the purpose of providing safe and convenient access (Note 14); and

WHEREAS the Filed Map depicted a specific route for a part of the ACCESS EASEMENT over Lot 1B, which ACCESS EASEMENT continued to a point at the northerly boundary of Lot 1B, and showed a possible route for future connection to a public street via an additional easement from Metro North Commuter Railroad for a second crossing of the railroad tracks or for access along the track to property of the City of Beacon, intended to be negotiated at a future time; and

WHEREAS, in subsequent negotiations and discussions between representatives of Beacon 248, Metro-North Commuter Railroad and the City of Beacon, Metro North Commuter Railroad and the City of Beacon declined to authorize the grant of a second crossing over the tracks or an easement along the tracks for secondary access, so the route proposed on the original subdivision map could not be used for such access, and

WHEREAS during the review of Beacon 248's proposal to develop a multi-family residential project on Parcel 1B, the Beacon Planning Board required Beacon 248 to find an alternate secondary access route to a public street, and Beacon 248 negotiated for the purchase of the parcel of land lying immediately north of Parcel 1B from Central Hudson Gas and Electric Corp. ("Lands N/F CHG&E"), which parcel provides a means of access to Wolcott Avenue, such parcel to be incorporated as part of the Beacon 248 Parcel by means of a reverse subdivision/lot consolidation, as shown on Map entitled "Beacon 248 Development LLC Final Subdivision Plat," prepared by Chazen Engineering, such newly acquired property to be improved by construction of a paved access ramp to access Wolcott Avenue, all at considerable cost to Beacon 248 Development, LLC, and

WHEREAS Beacon 248 has been granted a Special Use permit by the City Council of the City of Beacon and has received site plan approval of a multi-family residential project to be constructed on Parcel 1B from the City of Beacon Planning Board as shown on Map entitled “Tioranda Avenue/Beacon 248 Development LLC Site Plan,” (the “Site Plan”) which depicts such alternate secondary means of access for emergency purposes along the roadway from the main entrance to Parcel 1B from Tioranda Avenue, through project drives on Parcel 1B to be constructed as shown on the approved Site Plan, and, north of Parcel 1B, proceeding over Lands N/F CHG&E to Wolcott Avenue, and

WHEREAS the owner of Parcel 1A, has the right to use that area of Lot 1B shown on Map #10970 as “ACCESS EASEMENT” up to the point when said “ACCESS EASEMENT” leaves the northwesterly corner of Parcel 1B, which right is set forth in a Lease Agreement dated August 12, 2002, between Joseph Rendeiro as Landlord and Advantage Capital Partners, Inc., as Tenant, as modified by Amendment to Indenture of Lease dated August 12, 2002 (Document No. 02-2003-9729) and further modified by Lease Modification Agreement dated June 8, 2005, between Joseph Rendeiro and Sisters Properties LLC (Document No. 02-2005-7449, 02-2005-7448, and 02-2005-7450) and

WHEREAS Beacon 248 Development, LLC has acquired Lands N/F CHG&E from Central Hudson Gas and Electric Corp. for the purposes of constructing a ramp to extend the Access Easement from the northerly boundary of Parcel 1B to Wolcott Avenue (the “Access Easement Extension”) at considerable cost to Beacon 248 Development, LLC, and

WHEREAS, notwithstanding that Beacon 248 is proposing to consolidate Parcel 1B with Lands N/F CHG&E, and has prepared a lot consolidation map intended to be filed in the Dutchess

County Clerk's Office simultaneously with the Recording of this Declaration, to create a consolidated parcel ("Lot as Consolidated") for the Site Plan Development, the easements created by this Declaration are created separately over the parcels as they exist prior to the filing of the Lot Consolidation Plat, to wit: over the existing Parcel 1B as shown on the Filed Map ( "Parcel 1B") and the existing Lands N/F CHG&E, Liber 959 page 373, Tax Parcel 6054-45-012574-00 ("Land N/F CHG&E); and

WHEREAS Beacon 248 is agreeable, upon certain terms and conditions set forth herein, to allowing Parcel 1A to use such newly acquired and constructed access easement and ramp over Lands N/F CHG&E to Wolcott Avenue in lieu of Parcel 1A having to provide its own emergency access in accordance with the Filed Map;

NOW THEREFORE, in order to provide for secondary and emergency access easements for Parcel 1B and 1A over the driveways of Parcel 1B as they are constructed pursuant to the approved Site Plan, and to provide an emergency access easement over the Lands N/F CHG&E for the benefit of Parcel 1B; and, further, to create an emergency access easement over the "Access Easement Extension" over the Central Hudson Property for the benefit of Parcel 1A and for other properties located south thereof, provided that the conditions herein are met, Beacon 248 Development, LLC does hereby declare the creation of easements as follows:

1. There is hereby created an easement of access for emergency purposes for the benefit of Parcel 1B and also for the benefit of Parcel 1A and such other properties to the south thereof as may be granted approval by the City of Beacon to use the same for emergency purposes, which emergency access easement is shown on Map entitled "Tioranda Avenue/Beacon 248 Development LLC Site Plan," (the "Site Plan") which

depicts such alternate secondary means of access for emergency purposes along the internal drives of the Beacon 248 Development Site Plan, which easement shall begin at the point where the approved driveways of Parcel 1A, as they may ultimately be approved by the Planning Board, enter the main access drive through Parcel 1B near the main entrance from Tioronda Avenue, and proceeding through the paved drives through Parcel 1B to be constructed as part of the approved Site Plan, and ending at the northerly boundary of Parcel 1B. The access easement granted in this paragraph does not cross any portion of the Lands N/F CHG&E. The rights granted herein for the benefit of Parcel 1A are in addition to any rights that Parcel 1A may have to use the Access Easement as shown on the Filed Map for the purpose of creating its own secondary means of emergency access as was contemplated at the time said map was approved.

2. There is hereby created for the use and benefit of Parcel 1B an easement for emergency access from Parcel 1B to Wolcott Avenue through Lands N/F CHG&E (the "Access Easement Extension"), which easement is shown in red on Exhibit A annexed hereto, and runs from the drive at the northerly end of Parcel 1B through the Access Easement Extension over Lands N/F CHG&E. THIS ACCESS EASEMENT EXTENSION IS EXCLUSIVELY FOR THE BENEFIT OF PARCEL 1B EXCEPT AS HEREINAFTER PROVIDED.
3. It is declared that Parcel 1A shall have the right to use the newly created Access Easement Extension to provide a secondary means of access for emergency purposes PROVIDED THAT on or before the date of the issuance of a Certificate of Occupancy for any building on Parcel 1A that will use the Access Easement Extension, the owner

of Parcel 1A shall reimburse the owner of Parcel 1B for fifty percent (50%) of all expenses incurred in connection with the creation of said Access Easement Extension, including, but not limited to, the cost of land acquisition from Central Hudson and the cost of engineering and constructing the portion of the paved drive and ramp over Lands N/F CHG&E to Wolcott Avenue (hereafter, "Cost of the Creation of the Access Easement Extension.") In addition, the obligation of the owner of Parcel 1A pursuant to notes on the Filed Map to pay fifty percent (50%) of the cost of maintaining the Access Easement shall be deemed to also cover the Access Easement Extension. THE PAYMENT OF 50% OF THE COST OF CONSTRUCTION AND MAINTENANCE OF THE ACCESS EASEMENT EXTENSION BY THE OWNER OF PARCEL 1A IS A CONDITION PRECEDENT TO THE USE OF THE ACCESS EASEMENT EXTENSION.

4. It is further declared that in the event that the owner of any other property which abuts the southerly boundary line of Parcel 1A desires to make use of such Access Easement Extension as part of any plan to develop its property, and further that the City of Beacon approves such access, and further that the owner of Parcel 1A agrees to provide emergency access over Parcel 1A and further agrees that such owner can share the emergency access which now exists over Parcel 1B, and further that the owner of such other property agrees to pay thirty-three and one third percent (33 1/3%) of the cost of maintaining the Access Easement Extension beginning at such time as the first Certificate of Occupancy is granted for the development on such other property; then, and in the event that all such preconditions occur, such other property shall also have the right to use said Access Easement Extension, provided that the owner of such other

property shall pay thirty-three and one third percent (33 1/3%) of the Cost of the Creation of the Access Easement Extension, which payment shall be shared equally by the owners of Parcels 1A and 1B.

5. The rights and obligations hereunder shall run with the lands referred to herein and shall be binding on and for the benefit of, their heirs, successors and/or assigns.

IN WITNESS WHEREAS this Agreement has been duly executed

BEACON 248 DEVELOPMENT LLC

\_\_\_\_\_  
By: PETER DeROSA, Member

STATE OF NEW YORK  
COUNTY OF DUTCHESS

On the \_\_\_\_ day of \_\_\_\_ in the year 2017, before me, the undersigned, personally appeared PETER DeROSA, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that they executed the same in their capacity(ies), and that by their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
(signature and office of individual taking acknowledgment)

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NOTATIONS GOVERNED BY: GOVERNED BY MS-01 OR HIS OWN SIGNATURE, THE DATE OF SUCH ALTERATION, AND A SPECIFIC

EXHIBIT A,  
DATE JULY 26, 2017

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