

NOTICE OF ENVIRONMENTAL EASEMENT

The New York State Department of Environmental Conservation (the "Grantee"), has been granted an Environmental Easement pursuant to Article 71, Section 36 affecting real property located at the following addresses:

376-378, 384, 388-392, 398-402, and 408 St. Paul Street; 19-23 Emmett Street; 8-28 Ward Street; and 25 Cork Street.

Property Owner/Grantor: Germanow-Simon Corporation.

The Tax Map Identification Nos.: 106.62-1-028, 106.62-1-029, 106.62-1-030, 106.62-1-031, 106.62-1-032, 106.62-1-021, 106.63-1-016, and 106.62-1-057.

NYS Department of Environmental Conservation Site Nos.: C828117 and C828136

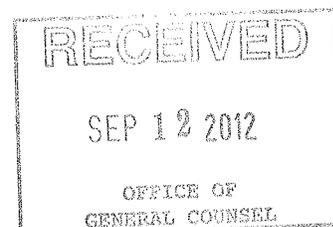
The Environmental Easement for the above referenced property has been filed in the Monroe County Clerk's Office on September 4, 2012 at Liber 11163, Page 114 of Deeds. It replaces two prior environmental easements recorded in 2006 and 2008, respectively, which covered the first seven above listed property parcels, and extends coverage to the eighth parcel (25 Cork Street) listed above.

The Environmental Easement contains institutional and/or engineering controls that run with the land. The Environmental Easement may restrict the use of the above referenced property to restricted commercial or industrial use.

NOTICE IS HEREBY GIVEN that any activity on the land which might or will prevent or interfere with the ongoing or completed remedial program, including the controls as set forth in the Environmental Easement and the Site Management Plan, must be done in accordance with the Site Management Plan which is incorporated by reference into the Environmental Easement. A copy of the Site Management Plan can be obtained by contacting the Department at derweb@gw.dec.state.ny.us. Be further advised of the notice provisions of NYCRR 375-1.11(d) relative to contemplated significant changes in use.

Failure to Comply with the terms and conditions of the Environmental Easement may subject violators to penalties of up to \$37,500 per day for violation of 6 NYCRR 375-1.11(b).

An electronic version of this environmental easement has been accepted by the New York State Department of Environmental Conservation and is available to the public at: <http://www.dec.ny.gov/chemical/36045.html>.



TO:

Vogt Manufacturing Corporation
c/o Voplex Corporation
P.O. Box 64
Rochester, New York 14601

Rochester Gas and Electric Corporation
Attn: Managing Attorney
89 East Avenue
Rochester, New York 14649-0001

NYS Department of Environmental Conservation
Office of the General Counsel
625 Broadway
Albany, New York 12233-5500

City of Rochester
Law Department
City Hall, Room 400A
30 Church St.
Rochester New York 14614

County of Monroe Industrial Development Agency
CityPlace, Suite 8100
50 West Main Street
Rochester, New York 14614

Attachment 1

New Recorded Environmental Easement

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

THIS INDENTURE made this 24th day of August, 2012 between Owner Germanow-Simon Corporation, having an office at 408 St. Paul Street, Rochester, New York 14605 (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 ~~376-378, 384, 388-392, 398-402 & 408 St. Paul Street, 19-23 Emmett Street, 8-28 Ward Street and 23 Cork Street~~ in the City of Rochester, ~~County~~ of Monroe and State of New York, known and designated on the tax map of the County Clerk of Monroe as tax map parcel numbers:

Section 106.62 Block 1 Lot 028 [408 St. Paul Street]; Section 106.62 Block 1 Lot 029 [398-402 St. Paul Street]; Section 106.62 Block 1 Lot 030 [388-392 St. Paul Street]; Section 106.62 Block 1 Lot 031 [384 St. Paul Street]; Section 106.62 Block 1 Lot 032 [376-378 St. Paul Street]; Section 106.62 Block 1 Lot 021 [19-23 Emmett Street]; Section 106.63 Block 1 Lot 016 [8-28 Ward Street] and Section 106.62 Block 1 Lot 057 [25 Cork Street] being the same as that property conveyed to Grantor by the following deeds: (i) deed dated December 19, 2005 and recorded in the Monroe County Clerk's Office in Liber 10235 of Deeds at page 660 (ii) deed dated December 19, 2005 and recorded in the Monroe County Clerk's Office in Liber 10235 of Deeds at page 666 (iii) deed dated April 27, 2006 and recorded in the Monroe County Clerk's Office in Liber 10289 of Deeds at page 506 and (iv) deed dated February 6, 2012 and recorded in the Monroe County Clerk's Office in Liber 11098 of Deeds at page 83. The property subject to this Environmental Easement (the "Controlled

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Property") comprises approximately 3.081 +/- acres, and is hereinafter more fully described in the Land Title Survey dated November 9, 2011 and certified August 1, 2012 prepared by Robert A. Vento, N.Y.S.P.L.S. No. 49701, 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 BCA Index Number: B8-0566-99-10, 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:

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) Groundwater and other environmental or public health monitoring must be performed as defined in the SMP;
- (5) 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;

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- (6) All future activities on the property that will disturb remaining contaminated material must be conducted in accordance with the SMP;
- (7) Monitoring to assess the performance and effectiveness of the remedy must be performed as defined in the SMP.
- (8) Operation, maintenance, monitoring, inspection, and reporting of any mechanical or physical components of the remedy shall be performed as defined in the SMP.
- (9) Access to the site must be provided to agents, employees or other representatives of the State of New York with reasonable prior notice to the property owner to assure compliance with the restrictions identified by this Environmental Easement.

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.

C. The SMP describes obligations that the Grantor assumes on behalf of Grantor, its successors and assigns. The Grantor's assumption of the obligations contained in the SMP which may include sampling, monitoring, and/or operating a treatment system, and providing certified reports to the NYSDEC, is and remains a fundamental element of the Department's determination that the Controlled Property is safe for a specific use, but not all uses. The SMP may be modified in accordance with the Department's statutory and regulatory authority. The Grantor and all successors and assigns, assume the burden of complying with the SMP and obtaining an up-to-date version of the SMP from:

Site Control Section
Division of Environmental Remediation
NYSDEC
625 Broadway
Albany, New York 12233
Phone: (518) 402-9553

D. Grantor must provide all persons who acquire any interest in the Controlled Property a true and complete copy of the SMP that the Department approves for the Controlled Property and all Department-approved amendments to that SMP.

E. Grantor covenants and agrees that until such time as the Environmental Easement is extinguished in accordance with the requirements of ECL Article 71, Title 36 of the ECL, the property deed and all subsequent instruments of conveyance relating to the Controlled Property shall state in at least fifteen-point bold-faced type:

This property is subject to an Environmental Easement held by the New York State Department of Environmental Conservation pursuant to Title 36 of Article 71 of the Environmental Conservation Law.

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F. Grantor covenants and agrees that this Environmental Easement shall be incorporated in full or by reference in any leases, licenses, or other instruments granting a right to use the Controlled Property.

G. Grantor covenants and agrees that it shall annually, or such time as NYSDEC may allow, submit to NYSDEC a written statement by an expert the NYSDEC may find acceptable certifying under penalty of perjury, in such form and manner as the Department may require, that:

(1) the inspection of the site to confirm the effectiveness of the institutional and engineering controls required by the remedial program was performed under the direction of the individual set forth at 6 NYCRR Part 375-1.8(h)(3).

(2) the institutional controls and/or engineering controls employed at such site:

- (i) are in-place;
- (ii) are unchanged from the previous certification, or that any identified changes to the controls employed were approved by the NYSDEC and that all controls are in the Department-approved format; and

(iii) that nothing has occurred that would impair the ability of such control to protect the public health and environment;

(3) the owner will continue to allow access to such real property to evaluate the continued maintenance of such controls;

(4) nothing has occurred that would constitute a violation or failure to comply with any site management plan for such controls;

(5) the report and all attachments were prepared under the direction of, and reviewed by, the party making the certification;

(6) to the best of his/her knowledge and belief, the work and conclusions described in this certification are in accordance with the requirements of the site remedial program, and generally accepted engineering practices; and

(7) the information presented is accurate and complete.

3. Right to Enter and Inspect. Grantee, its agents, employees, or other representatives of the State may enter and inspect the Controlled Property in a reasonable manner and at reasonable times to assure compliance with the above-stated restrictions.

4. Reserved Grantor's Rights. Grantor reserves for itself, its assigns, representatives, and successors in interest with respect to the Controlled Property, all rights as fee owner of the Controlled Property, including:

A. Use of the Controlled Property for all purposes not inconsistent with, or limited by the terms of this Environmental Easement;

B. The right to give, sell, assign, or otherwise transfer part or all of the underlying fee interest to the Controlled Property, subject and subordinate to this Environmental Easement;

5. Enforcement

A. This Environmental Easement is enforceable in law or equity in perpetuity by Grantor, Grantee, or any affected local government, as defined in ECL Section 71-3603, against

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 Numbers: C828117 & C828136
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

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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.

SCHEDULE "A" PROPERTY DESCRIPTION

Address: 376-378, 384, 388-392, 398-402 & 408 St. Paul St., 19-23 Emmett St., 8-28 Ward St. & 25 Cork St.

Tax Map: 106.62-1-028; 106.62-1-029; 106.62-1-030; 106.62-1-031; 106.62-1-032
106.62-1-021; 106.63-1-016 and 106.62-1-057

1405205
11/10/2011
M.J.G.

**LANDS COMPRISING N.Y.S. BROWNFIELD CLEANUP PROGRAM
WARD STREET SITE NO. C828117 & 8-28 WARD STREET SITE NO. C828136**

DESCRIPTION OF LANDS DESIGNATED AS TAX MAP PARCELS 106.62-1-028, 106.62-1-029, 106.62-1-030, 106.62-1-031 AND 106.62-1-032 BEING 408, 398-402, 388-392, 384 AND 376-378 ST. PAUL STREET; LANDS DESIGNATED AS TAX MAP PARCEL 106.62-1-021 BEING 19-23 EMMETT STREET; LANDS DESIGNATED AS TAX MAP PARCEL 106.63-1-016 BEING 8-28 WARD STREET, AND LANDS DESIGNATED AS TAX MAP PARCEL 106.62-1-057 BEING 25 CORK STREET.

All that tract or parcel of land containing 3.081 acres, more or less, situate in the City of Rochester, County of Monroe, State of New York, all as shown on a map entitled "Germanow-Simon, ALTA/ACSM Land Title Survey" prepared by Stantec Consulting Services, Inc., dated November 9, 2011 and certified August 1, 2012, having Drawing No. 190500014 V-3 and being more particularly bounded and described as follows:

Beginning at a point on the southeasterly right-of-way line of St. Paul Street (66 feet wide), said point being at the intersection with the northeasterly right-of-way line of Ward Street (80' wide); thence

1. N 38°20'00" W, along said southeasterly right-of-way line, a distance of 277.70 feet to a point of intersection with the common line dividing lands now or formerly of Gordon J. Van Vliet (Tax Map No. 106.62-1-027) to the northwest and lands formerly of Mineth Realty Company (Tax 106.62-1-028) to the southeast; thence
2. N 50°56'44" E, along said common line, a distance of 241.87 feet to a point of intersection with the northwesterly right-of-way line of Cork Street (18 feet wide); thence
3. N 50°56'44" E, along the southeasterly end of remaining Cork Street, the southeasterly portion of which was abandoned per City of Rochester Ordinance No. 2011-275, a distance of 18.00 feet; thence
4. N 37°22'13" W, along the remaining existing right-of-way line of Cork Street, a distance of 49.08 feet to a point of intersection with the common line dividing lands of the County of Monroe Industrial Development Agency (Tax Map No. 106.62-1-020) on the northwest and the former lands of Upper Falls Realty Co. (Tax Map No. 106.62-1-021) on the southeast; thence
5. N 50°56'44" E, along said common line, a distance of 132.00 feet to a point on the northwesterly right-of-way line of Emmett Street (62 feet wide); thence
6. S 37°22'13" E, along the said northwesterly right-of-way line of Emmett Street, a distance of 332.26 feet to a point of curvature; thence
7. Southeasterly, continuing along the said northwesterly right-of-way line of Emmett Street, along a curve to the right, having a radius of 369.00 feet, through a central angle of 13°20'48", a distance of 85.96 feet to a point of compound curvature; thence

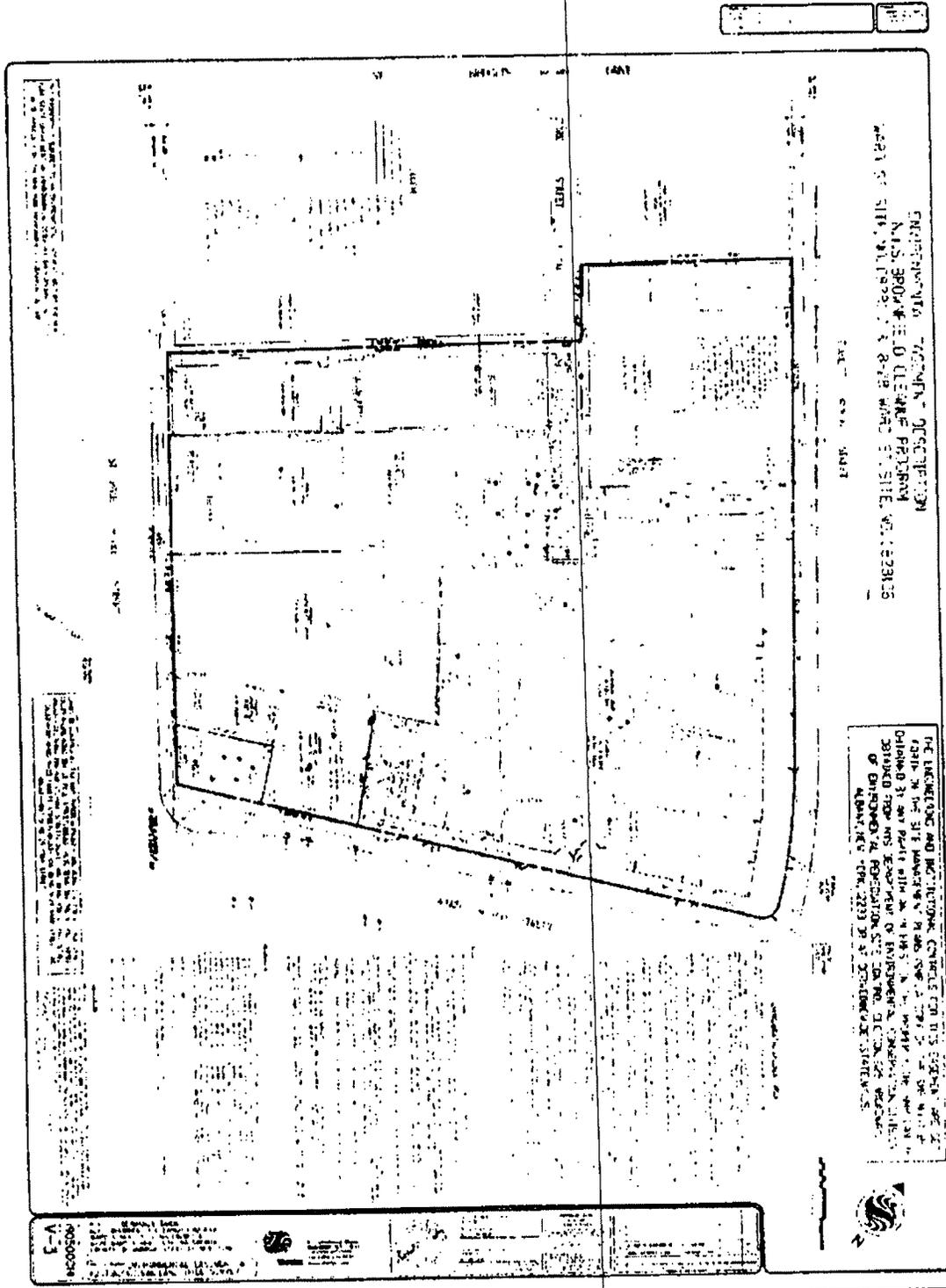
County: Monroe

Site Nos: C828117 & C828136

BCA Index No.: B8-0566-99-10

8. Southeasterly, continuing along the said northwesterly right-of-way line of Emmett Street, along a curve to the right, having a radius of 10.00 feet, through a central angle of $90^{\circ}00'00''$, a distance of 15.71 feet to a point of tangency on the aforementioned northeasterly right-of-way line of Ward Street, thence
9. S $65^{\circ}58'35''$ W, along the said northeasterly right-of-way line, a distance of 375.17 feet to the Point of Beginning.

SURVEY



Attachment 2

Termination of Prior Environmental Easements for BCP Sites C828117 and C828136

MONROE COUNTY CLERK'S OFFICE

THIS IS NOT A BILL. THIS IS YOUR RECEIPT

ROCHESTER, NY

Receipt # 765808

Index DEEDS

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No. Pages : 7

Instrument TERMINATION OF EASEMENT

Date : 09/04/2012

Time : 02:26:19PM

Control # 201209040406

Ref 1 #

Employee : SueG

Return To:

HISCOCK & BARCLAY
2000 HSBC PLAZA
100 CHESTNUT STREET
ROCHESTER, NY 14604-

PEOPLE OF THE STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

PEOPLE OF THE STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

COUNTY FEE NUMBER PAGES	\$	30.00
RECORDING FEE	\$	45.00

Total \$ 75.00

State of New York

MONROE COUNTY CLERK'S OFFICE

WARNING - THIS SHEET CONSTITUTES THE CLERKS
ENDORSEMENT, REQUIRED BY SECTION 317-a(5) &
SECTION 319 OF THE REAL PROPERTY LAW OF THE
STATE OF NEW YORK. DO NOT DETACH OR REMOVE.

CHERYL DINOLFO
MONROE COUNTY CLERK



**TERMINATION AND RELEASE
OF ENVIRONMENTAL EASEMENT**

This TERMINATION AND RELEASE OF ENVIRONMENTAL EASEMENT is made as of this 24th day of August, 2012, by ~~The~~ People of the State of New York, acting through their Commissioner of the Department of Environmental Conservation ("NYSDEC" or "Department") with its headquarters located at 625 Broadway, Albany, New York 12233.

RECITALS

- A. The Department and Germanow-Simon Corporation having an office at 408 St. Paul Street, Rochester, New York 14605 ("the Grantor") entered into that certain Environmental Easement for New York State Brownfield Cleanup Program ("BCP") Site No. C828136 dated as of December 22, 2008 and recorded in the Land Records of the Monroe County Clerk on December 29, 2008 as Book 10703 at Page 0133 (the "Environmental Easement"). Capitalized terms used herein without definition have the meanings ascribed to them in the Environmental Easement.
- B. The Grantor is the owner of the land that is the subject of the Environmental Easement, which is known and designated on the tax map of the County of Monroe as Tax Map Parcel Section 106.63 Block 1 Lot 16 located at the address of 8-28 Ward, being the same as that Property conveyed to Grantor by deed on April 27, 2006, and recorded in the Land Records of the Monroe County Clerk at Liber 10289 at Page 0506 of Deeds comprised of approximately 1.220± acres, and hereinafter more fully described in Exhibit A (the "Controlled Property").
- C. Pursuant to Section 1, 2, 3, 4 and 5 of the Environmental Easement, the 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.
- D. Pursuant to Section 2 A of the Environmental Easement, the Controlled Property may be used for any commercial or industrial use as long as the engineering controls and land use restrictions specified therein are employed.
- E. The Grantor and Department have executed a new environmental easement that will be filed contemporaneously with this Termination which adds the adjacent Cork Street right-of-way that was abandoned by the City of Rochester and conveyed to Grantor by deed dated February 6, 2012 and recorded in the Monroe County Clerk's Office in Liber 11098 of Deeds at page 83 (the "City Abandoned Parcel"), comprised of approximately 0.059 ± acres, to this and the other Grantor-owned Parcels that are subject to the site investigation, remediation, operation, maintenance and monitoring activities that Grantor

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has been conducting under the BCP agreements for the Controlled Property and for the adjacent property at BCP Site No. C828117.

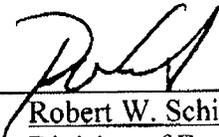
- F. Pursuant to Section 9 of the Environmental Easement, the Department elects to terminate and release the Environmental Easement.

TERMINATION AND RELEASE OF ENVIRONMENTAL EASEMENT

1. The above recitals are hereby incorporated into this Termination and Release of Environmental Easement.
2. The Department confirms that the date hereof is the "Termination Date" and the Department accordingly hereby terminates the Environmental Easement and releases Grantor and the property as described in Exhibit A from the covenants, restrictions, and obligations contained therein.
3. This Termination and Release of Environmental Easement inures to and binds the Grantor and the Department and their respective successors and assigns.
4. This Termination and Release of Environmental Easement shall be governed by and interpreted in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, the Department has executed this Termination and Release of Easement as of the day and year first above written.

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

EXHIBIT A

*County: Monroe Site No: C 828136 BCA Index No: B8-0566-99-10

SCHEDULE "A"
PROPERTY DESCRIPTION

Address: 8-28 Ward Street, City of Rochester, NY
Monroe County
Tax Map: 106.63-1-016

All that tract or parcel of land containing 1.220 acres, more or less, situate in the City of Rochester, County of Monroe and State of New York and more particularly bounded and described as follows:

Commencing at a point which is the intersection of the easterly right-of-way line of St. Paul Street (66' R.O.W) and the northerly right-of-way line of Ward Street (80' R.O.W.), thence

- 1) N 29° 10' 20" W, a distance of 74.17 feet to a point, thence
- 2) N 65° 58' 35" E, a distance of 41.60 feet to a point, thence
- 3) N 36° 43' 26" W, a distance of 105.92 feet to a point, thence
- 4) N 51° 42' 33" E, a distance of 71.01 feet to a point, thence
- 5) S 37° 22' 13" E, a distance of 2.00 feet to point, thence
- 6) N 50° 56' 44" E, a distance of 18.01 feet to a point, thence
- 7) N 37° 22' 13" W, a distance of 28.00 feet to a point, thence
- 8) N 50° 56' 44" E, a distance of 132.00 feet to a point on the westerly right-of-way line of Emmett Street, (62' R.O.W.), thence
- 9) S 37° 22' 13" E, along the westerly right-of-way line of Emmett Street, a distance of 168.26 feet to a point of curvature, thence
- 10) Southerly, along a curve to the right, a distance of 85.96 feet along the westerly right-of-way line of Emmett Street to a point of compound curvature, said curve having a delta angle of 13° 20' 48" and a radius of 369.00 feet, thence
- 11) Southwesterly, along a curve to the right, a distance of 15.71 feet to a point on the northerly right-of-way line of Ward Street, said curve having a delta angle of 90° 00' 00" and a radius of 10.00 feet, thence
- 12) S 65° 58' 35" W, along the northerly right-of-way line of Ward Street, a distance of 258.15 feet to the point and place of beginning.

MONROE COUNTY CLERK'S OFFICE

ROCHESTER, NY

THIS IS NOT A BILL. THIS IS YOUR RECEIPT

Receipt # 765808

Index DEEDS

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No. Pages : 7

Instrument TERMINATION OF EASEMENT

Date : 09/04/2012

Time : 02:26:19PM

Control # 201209040407

Ref 1 #

Employee : SueG

Return To:

DEPARTMENT OF ENVIRONMENTAL CONSERVATION
PEOPLE OF THE STATE OF NEW YORK

DEPARTMENT OF ENVIRONMENTAL CONSERVATION
PEOPLE OF THE STATE OF NEW YORK

COUNTY FEE NUMBER PAGES	\$	30.00
RECORDING FEE	\$	45.00

Total \$ 75.00

State of New York

MONROE COUNTY CLERK'S OFFICE

WARNING - THIS SHEET CONSTITUTES THE CLERKS
ENDORSEMENT, REQUIRED BY SECTION 317-a(5) &
SECTION 319 OF THE REAL PROPERTY LAW OF THE
STATE OF NEW YORK. DO NOT DETACH OR REMOVE.

CHERYL DINOLFO

MONROE COUNTY CLERK



PI182-201209040407-7

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**TERMINATION AND RELEASE
OF ENVIRONMENTAL EASEMENT**

This TERMINATION AND RELEASE OF ENVIRONMENTAL EASEMENT is made as of this 24th day of August, 2012, by The People of the State of New York, acting through their Commissioner of the Department of Environmental Conservation ("NYSDEC" or "Department") with its headquarters located at 625 Broadway, Albany, New York 12233.

RECITALS

- A. The Department and Germanow-Simon Corporation having an office at 408 St. Paul Street, Rochester, New York 14605 ("the Grantor") entered into that certain Environmental Easement for New York State Brownfield Cleanup Program ("BCP") Site No. C828117 dated as of November 14, 2006 and recorded in the Land Records of the Monroe County Clerk on December 19, 2006 as Book 10397 at Page 0512 (the "Environmental Easement"). Capitalized terms used herein without definition have the meanings ascribed to them in the Environmental Easement.
- B. The Grantor is the owner of the land that is the subject of the Environmental Easement, which is known and designated on the tax map of the County of Monroe as Tax Map Parcels Section 106.62 Block 1 Lot(s) 21, 29, 31, 32, 28 & 30 located at the address of ~~19-23 Emmett Street [Lot 21]; 398-402 St. Paul Street [Lot 29]; 384 St. Paul Street [Lot 31]; 376-378 St. Paul Street [Lot 32]; 408 St. Paul Street [Lot 28] and 388-392 St. Paul Street [Lot 30]~~, being the same as that Property conveyed to Grantor by deed on December 19, 2005, and recorded in the Land Records of the Monroe County Clerk Liber 10235 at Page 660 and 666 of Deeds, comprised of approximately 1.801± acres, and hereinafter more fully described in Exhibit A (the "Controlled Property").
- C. Pursuant to Section 1, 2, 3, 4 and 5 of the Environmental Easement, the 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.
- D. Pursuant to Section 2 A of the Environmental Easement, the Controlled Property may be used for any commercial or industrial use as long as the engineering controls and land use restrictions specified therein are employed.
- E. The Grantor and Department have executed a new environmental easement that will be filed contemporaneously with this Termination which adds the adjacent Cork Street right-of-way that was abandoned by the City of Rochester and conveyed to Grantor by deed dated February 6, 2012 and recorded in the Monroe County Clerk's Office in Liber 11098 of Deeds at page 83 (the "City Abandoned Parcel"), comprised of approximately

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0.059 ± acres, to this and the other Grantor-owned Parcels that are subject to the site investigation, remediation, operation, maintenance and monitoring activities that Grantor has been conducting under BCP agreements for the Controlled Property and the adjacent BCP Site No. C828136.

- F. Pursuant to Section 9 of the Environmental Easement, the Department elects to terminate and release the Environmental Easement.

TERMINATION AND RELEASE OF ENVIRONMENTAL EASEMENT

1. The above recitals are hereby incorporated into this Termination and Release of Environmental Easement.
2. The Department confirms that the date hereof is the "Termination Date" and the Department accordingly hereby terminates the Environmental Easement and releases Grantor and the property as described in Exhibit A from the covenants, restrictions, and obligations contained therein.
3. This Termination and Release of Environmental Easement inures to and binds the Grantor and the Department and their respective successors and assigns.
4. This Termination and Release of Environmental Easement shall be governed by and interpreted in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, the Department has executed this Termination and Release of Easement as of the day and year first above written.

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

EXHIBIT A

DESCRIPTION OF LANDS DESIGNATED AS TAX MAP
PARCELS 106.62-1-028, 106.62-1-029, 106.62-1-030, 106.62-1-031 AND 106.62-1-032
BEING 376, 384, 388-392, 398 AND 408 ST. PAUL STREET

All that tract or parcel of land containing 1.304 acres, more or less, situate in the City of Rochester, County of Monroe, State of New York, all as shown on a map entitled "Germanow-Simon, Boundary Survey Map" prepared by Stantec Consulting Services, Inc., dated August 10, 2006, having Drawing No. 140520S V-1 and being more particularly bounded and described as follows:

Beginning at a point on the southeasterly right-of-way line of St. Paul Street (66 feet wide), said point being at the intersection with the northeasterly right-of-way line of Ward Street (80' wide); thence

1. N 38°20'00" W, along said southeasterly right-of-way line, a distance of 277.70 feet to a point of intersection with the common line dividing lands now or formerly of Gordon J. Van Vliet (Tax Map No. 106.62-1-027) to the northwest and lands now or formerly of Mineth Realty Company (Tax 106.62-1-028) to the southeast; thence
2. N 50°56'44" E, along said common line, a distance of 241.87 feet to a point of intersection with the northwesterly right-of-way line of Cork Street (18 feet wide); thence
3. S 37°22'13" E, along said northwesterly right-of-way line, a distance of 140.92 feet to a point of intersection with the common line dividing lands now or formerly of The Genesee Brewing Company, Inc. (Tax Map No. 106.63-1-016) to the southeast and lands now or formerly of Mineth Realty Company (Tax Map No. 106.62-1-030) to the northwest; thence
4. S 51°42'33" W, along said common line, a distance of 71.00 feet to a point; thence
5. S 36°43'26" E, continuing along said common line, a distance of 105.92 feet to a point; thence
6. S 65°58'35" W, continuing along said common line, a distance of 41.60 feet to a point; thence
7. S 29°10'20" E, along the common line dividing lands of The Genesee Brewing Company, Inc., to the southeast and lands now or formerly of Upper Falls Realty Co. (Tax Map No. 106.62-1-032) to the northwest, a distance of 74.17 feet to a point of intersection with the aforementioned northeasterly right-of-way line of Ward Street; thence
8. S 65°58'35" W, along said northeasterly right-of-way line, a distance of 117.02 feet to the Point or Place of Beginning.

Subject to any easements or encumbrances of record.

DESCRIPTION OF LANDS DESIGNATED AS TAX MAP
PARCEL 106.62-1-021 BEING 19-23 EMMETT STREET

All that tract or parcel of land containing 0.497 acres, more or less, situate in the City of Rochester, County of Monroe, State of New York, all as shown on a map entitled "Germanow-Simon, Boundary Survey Map" prepared by Stantec Consulting Services, Inc., dated August 10, 2006, having Drawing No. 1405205 V-1 and being more particularly bounded and described as follows:

Beginning at a point on the northwesterly right-of-way line of Emmett Street (62 feet wide), said point being at the intersection with the common line dividing lands now or formerly of the County of Monroe Industrial Development Agency (Tax Map No. 106.62-1-020) on the northwest and lands now or formerly of Upper Falls Realty Co. (Tax Map No. 106.62-1-021) on the southeast, said point being 176 feet, more or less, southeast of the southeasterly right-of-way line of St. Bridget's Drive (66 feet wide) as measured along the aforementioned northwesterly right-of-way line; thence

1. S 37°22'13" E, along the aforementioned northwesterly right-of-way line of Emmett Street, a distance of 164.00 feet to a point of intersection with the northwesterly line of lands now or formerly of The Genesee Brewing Company, Inc. (Tax Map No. 106.63-1-016); thence
2. S 50°56'44" W, along the last mentioned line, said line also being the southeasterly line of the aforementioned lands of Upper Falls Realty Co., a distance of 132.00 feet to a point of intersection with the southeasterly right-of-way line of Cork Street (18 feet wide); thence
3. N 37°22'13" W, along said southeasterly right-of-way line, a distance of 164.00 feet to a point of intersection with the first mentioned common line dividing lands of the County of Monroe Industrial Development Agency on the northwest and the lands of Upper Falls Realty Co. on the southeast; thence
4. N 50°56'44" E, along said common line, a distance of 132.00 feet to the Point or Place of Beginning.

Subject to any easements or encumbrances of record.

Attachment 3

Proof of Notice of New Recorded Environmental Easement

MONROE COUNTY CLERK'S OFFICE

ROCHESTER, NY

Return To:

HISCOCK & BARCLAY ATTN THOMAS J WARTH
2000 HSBC PLAZA
100 CHESTNUT ST
ROCHESTER, NY 14604-

NYS DEPARTMENT OF ENVIRONMENTAL CONSERVATION

VOGT MANUFACTURING CORPORATION
ROCHESTER GAS AND ELECTRIC CORPORATION
ROCHESTER CITY OF
COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY

COUNTY FEE NUMBER PAGES \$ 0.00
RECORDING FEE \$ 0.00

Total \$ 0.00

State of New York

MONROE COUNTY CLERK'S OFFICE

WARNING - THIS SHEET CONSTITUTES THE CLERKS
ENDORSEMENT, REQUIRED BY SECTION 317-a(5) &
SECTION 319 OF THE REAL PROPERTY LAW OF THE
STATE OF NEW YORK. DO NOT DETACH OR REMOVE.

CHERYL DINOLFO
MONROE COUNTY CLERK



PI182-201209110467-21

THIS IS NOT A BILL. THIS IS YOUR RECEIPT

Receipt # 768767

Index DEEDS

Book 11165 Page 265

No. Pages : 21

Instrument MISCELLANEOUS RECORD

Date : 09/11/2012

Time : 01:36:01PM

Control # 201209110467

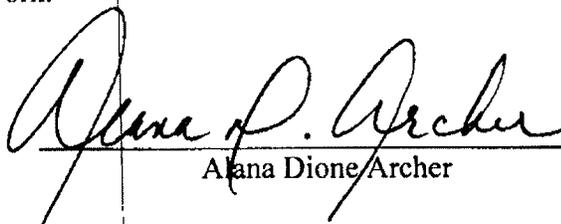
Ref 1 #

Employee : SueG

and the Notice to Municipality attached hereto as Appendix "B" upon the following party at the following address:

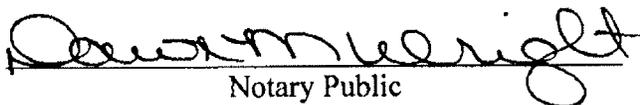
City of Rochester
Law Department
City Hall, Room 400A
30 Church Street
Rochester New York 14614

Via certified mail, return receipt requested by depositing a true and correct copy of the same property enclosed in a post-paid wrapper in the Official Depository maintained and exclusively controlled by the United States Postal Service at Rochester, New York.



Alana Dione Archer

Sworn to before me this
7th day of September, 2012



Notary Public

DAWN M. WRIGHT
Notary Public, State of New York
Qualified in Monroe County
Commission Expires August 2, 20 13

APPENDIX A

NOTICE OF ENVIRONMENTAL EASEMENT

The New York State Department of Environmental Conservation (the "Grantee"), has been granted an Environmental Easement pursuant to Article 71, Section 36 affecting real property located at the following addresses:

376-378, 384, 388-392, 398-402, and 408 St. Paul Street; 19-23 Emmett Street; 8-28 Ward Street; and 25 Cork Street.

Property Owner/Grantor: Germanow-Simon Corporation.

The Tax Map Identification Nos.: 106.62-1-028, 106.62-1-029, 106.62-1-030, 106.62-1-031, 106.62-1-032, 106.62-1-021, 106.63-1-016, and 106.62-1-057.

NYS Department of Environmental Conservation Site Nos.: C828117 and C828136

The Environmental Easement for the above referenced property has been filed in the Monroe County Clerk's Office on September 4, 2012 at Liber 11163, Page 114 of Deeds. It replaces two prior environmental easements recorded in 2006 and 2008, respectively, which covered the first seven above listed property parcels, and extends coverage to the eighth parcel (25 Cork Street) listed above.

The Environmental Easement contains institutional and/or engineering controls that run with the land. The Environmental Easement may restrict the use of the above referenced property to restricted commercial or industrial use.

NOTICE IS HEREBY GIVEN that any activity on the land which might or will prevent or interfere with the ongoing or completed remedial program, including the controls as set forth in the Environmental Easement and the Site Management Plan, must be done in accordance with the Site Management Plan which is incorporated by reference into the Environmental Easement. A copy of the Site Management Plan can be obtained by contacting the Department at derweb@gw.dec.state.ny.us. Be further advised of the notice provisions of NYCRR 375-1.11(d) relative to contemplated significant changes in use.

Failure to Comply with the terms and conditions of the Environmental Easement may subject violators to penalties of up to \$37,500 per day for violation of 6 NYCRR 375-1.11(b).

An electronic version of this environmental easement has been accepted by the New York State Department of Environmental Conservation and is available to the public at:
<http://www.dec.ny.gov/chemical/36045.html>.

TO:

Vogt Manufacturing Corporation
c/o Voplex Corporation
P.O. Box 64
Rochester, New York 14601

Rochester Gas and Electric Corporation
Attn: Managing Attorney
89 East Avenue
Rochester, New York 14649-0001

NYS Department of Environmental Conservation
Office of the General Counsel
625 Broadway
Albany, New York 12233-5500

City of Rochester
Law Department
City Hall, Room 400A
30 Church St.
Rochester New York 14614

County of Monroe Industrial Development Agency
CityPlace, Suite 8100
50 West Main Street
Rochester, New York 14614

APPENDIX B

HISCOCK & BARCLAY^{LLP}

Thomas J. Warth
Of Counsel

September 7, 2012

City of Rochester
Law Department
City Hall, Room 400A
30 Church St.
Rochester New York 14614
Attention: Scott Smith, Esq.

Re: Environmental Easement: Germanow-Simon Ward Street Sites

Dear Mr. Smith:

Attached please find a copy of an environmental easement granted to the New York State Department of Environmental Conservation ("DEC")

On August 20, 2012,
by Germanow-Simon Corporation,
for property at 376-378, 384, 388-392, 398-402, and 408 St. Paul Street; 19-23 Emmett Street; 8-
28 Ward Street; and 25 Cork Street,
Tax Map Nos.: 106.62-1-028, 106.62-1-029, 106.62-1-030, 106.62-1-031, 106.62-1-032, 106.62-
1-021, 106.63-1-016, and 106.62-1-057
DEC Site Nos.: C828117 and C828136

This Environmental Easement replaces two prior environmental easements accepted and recorded in 2006 and 2008, respectively, which covered the first seven above listed property parcels, and extends coverage to the eighth parcel (25 Cork Street) listed above.

This Environmental Easement restricts future use of the above-referenced controlled property to restricted commercial and/or industrial uses. It also requires operation and maintenance of institutional and engineering controls at the controlled property as specified in the Site Management Plans ("SMPs"), which are incorporated into the Environmental Easement by reference and can be obtained by contacting the DEC at derweb@gw.dec.state.ny.us. Such controls include: groundwater and other environmental or public health monitoring; reporting of data and information pertinent to site management of the controlled property; conducting all future activities on the controlled property that will disturb remaining contaminated material in accordance with the SMP; monitoring to assess the performance and effectiveness of the remedy; operation, maintenance, monitoring, inspection, and reporting of mechanical or physical components of the remedy; and upon reasonable prior notice to the property owner, providing

September 7, 2012
Page 2

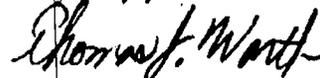
access to the controlled property for agents, employees or other representatives of the State of New York in order to assure compliance with the restrictions identified by this Environmental Easement.

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.

An electronic version of every environmental easement that has been accepted by this Department is available to the public at:
<http://www.dec.ny.gov/cfm/xtapps/derfoil/index.cfm?pageid>. If you have any questions or comments regarding this matter, please do not hesitate to contact me.

Very truly yours,


Thomas J. Warth

Enclosure

MONROE COUNTY CLERK'S OFFICE

ROCHESTER, NY

Return To:

HISCOCK & BARCLAY
2000 HSBC PLAZA
100 CHESTNUT STREET
ROCHESTER, NY 14604-

GERMANOW-SIMON CORPORATION
PEOPLE OF THE STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

GERMANOW-SIMON CORPORATION
PEOPLE OF THE STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

COUNTY FEE TP584	\$	5.00
COUNTY FEE NUMBER PAGES	\$	55.00
RECORDING FEE	\$	45.00
STATE FEE TRANSFER TAX	\$	0.00

Total	\$	105.00
State of New York		

MONROE COUNTY CLERK'S OFFICE
WARNING - THIS SHEET CONSTITUTES THE CLERKS
ENDORSEMENT, REQUIRED BY SECTION 317-a(5) &
SECTION 319 OF THE REAL PROPERTY LAW OF THE
STATE OF NEW YORK. DO NOT DETACH OR REMOVE.

CHERYL DINOLFO
MONROE COUNTY CLERK



PI182-201209040405-12

THIS IS NOT A BILL. THIS IS YOUR RECEIPT

Receipt # 765808

Index DEEDS

Book 11163 Page 114

No. Pages : 12

Instrument EASEMENT ASSIGNED

Date : 09/04/2012

Time : 02:26:19PM

Control # 201209040405

TT # TT0000001889

Ref 1 #

Employee : SueG

TRANSFER AMT

TRANSFER AMT \$1.00

11P

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

THIS INDENTURE made this 24th day of August, 2012 between Owner Germanow-Simon Corporation, having an office at 408 St. Paul Street, Rochester, New York 14605 (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 (~~which~~ ^{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

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WHEREAS, Grantor, is the owner of real property located at the address of ~~376-378, 384, 388-392, 398-402 & 408 St. Paul Street, 19-23 Emmett Street, 8-28 Ward Street and 23 Cork Street~~ in the City of Rochester, ~~County~~ of Monroe and State of New York, known and designated on the tax map of the County Clerk of Monroe as tax map parcel numbers:

Section 106.62 Block 1 Lot 028 [408 St. Paul Street]; Section 106.62 Block 1 Lot 029 [398-402 St. Paul Street]; Section 106.62 Block 1 Lot 030 [388-392 St. Paul Street]; Section 106.62 Block 1 Lot 031 [384 St. Paul Street]; Section 106.62 Block 1 Lot 032 [376-378 St. Paul Street]; Section 106.62 Block 1 Lot 021 [19-23 Emmett Street]; Section 106.63 Block 1 Lot 016 [8-28 Ward Street] and Section 106.62 Block 1 Lot 057 [25 Cork Street] being the same as that property conveyed to Grantor by the following deeds: (i) deed dated December 19, 2005 and recorded in the Monroe County Clerk's Office in Liber 10235 of Deeds at page 660 (ii) deed dated December 19, 2005 and recorded in the Monroe County Clerk's Office in Liber 10235 of Deeds at page 666 (iii) deed dated April 27, 2006 and recorded in the Monroe County Clerk's Office in Liber 10289 of Deeds at page 506 and (iv) deed dated February 6, 2012 and recorded in the Monroe County Clerk's Office in Liber 11098 of Deeds at page 83. The property subject to this Environmental Easement (the "Controlled

[6/11]

Property") comprises approximately 3.081 +/- acres, and is hereinafter more fully described in the Land Title Survey dated November 9, 2011 and certified August 1, 2012 prepared by Robert A. Vento, N.Y.S.P.L.S. No. 49701, 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 BCA Index Number: B8-0566-99-10, 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:

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) Groundwater and other environmental or public health monitoring must be performed as defined in the SMP;

(5) 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;

[6/11]

- (6) All future activities on the property that will disturb remaining contaminated material must be conducted in accordance with the SMP;
- (7) Monitoring to assess the performance and effectiveness of the remedy must be performed as defined in the SMP.
- (8) Operation, maintenance, monitoring, inspection, and reporting of any mechanical or physical components of the remedy shall be performed as defined in the SMP.
- (9) Access to the site must be provided to agents, employees or other representatives of the State of New York with reasonable prior notice to the property owner to assure compliance with the restrictions identified by this Environmental Easement.

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.

C. The SMP describes obligations that the Grantor assumes on behalf of Grantor, its successors and assigns. The Grantor's assumption of the obligations contained in the SMP which may include sampling, monitoring, and/or operating a treatment system, and providing certified reports to the NYSDEC, is and remains a fundamental element of the Department's determination that the Controlled Property is safe for a specific use, but not all uses. The SMP may be modified in accordance with the Department's statutory and regulatory authority. The Grantor and all successors and assigns, assume the burden of complying with the SMP and obtaining an up-to-date version of the SMP from:

Site Control Section
Division of Environmental Remediation
NYSDEC
625 Broadway
Albany, New York 12233
Phone: (518) 402-9553

D. Grantor must provide all persons who acquire any interest in the Controlled Property a true and complete copy of the SMP that the Department approves for the Controlled Property and all Department-approved amendments to that SMP.

E. Grantor covenants and agrees that until such time as the Environmental Easement is extinguished in accordance with the requirements of ECL Article 71, Title 36 of the ECL, the property deed and all subsequent instruments of conveyance relating to the Controlled Property shall state in at least fifteen-point bold-faced type:

This property is subject to an Environmental Easement held by the New York State Department of Environmental Conservation pursuant to Title 36 of Article 71 of the Environmental Conservation Law.

[6/11]

F. Grantor covenants and agrees that this Environmental Easement shall be incorporated in full or by reference in any leases, licenses, or other instruments granting a right to use the Controlled Property.

G. Grantor covenants and agrees that it shall annually, or such time as NYSDEC may allow, submit to NYSDEC a written statement by an expert the NYSDEC may find acceptable certifying under penalty of perjury, in such form and manner as the Department may require, that:

(1) the inspection of the site to confirm the effectiveness of the institutional and engineering controls required by the remedial program was performed under the direction of the individual set forth at 6 NYCRR Part 375-1.8(h)(3).

(2) the institutional controls and/or engineering controls employed at such site:

- (i) are in-place;
- (ii) are unchanged from the previous certification, or that any identified changes to the controls employed were approved by the NYSDEC and that all controls are in the Department-approved format; and

(iii) that nothing has occurred that would impair the ability of such control to protect the public health and environment;

(3) the owner will continue to allow access to such real property to evaluate the continued maintenance of such controls;

(4) nothing has occurred that would constitute a violation or failure to comply with any site management plan for such controls;

(5) the report and all attachments were prepared under the direction of, and reviewed by, the party making the certification;

(6) to the best of his/her knowledge and belief, the work and conclusions described in this certification are in accordance with the requirements of the site remedial program, and generally accepted engineering practices; and

(7) the information presented is accurate and complete.

3. Right to Enter and Inspect. Grantee, its agents, employees, or other representatives of the State may enter and inspect the Controlled Property in a reasonable manner and at reasonable times to assure compliance with the above-stated restrictions.

4. Reserved Grantor's Rights. Grantor reserves for itself, its assigns, representatives, and successors in interest with respect to the Controlled Property, all rights as fee owner of the Controlled Property, including:

A. Use of the Controlled Property for all purposes not inconsistent with, or limited by the terms of this Environmental Easement;

B. The right to give, sell, assign, or otherwise transfer part or all of the underlying fee interest to the Controlled Property, subject and subordinate to this Environmental Easement;

5. Enforcement

A. This Environmental Easement is enforceable in law or equity in perpetuity by Grantor, Grantee, or any affected local government, as defined in ECL Section 71-3603, against

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 Numbers: C828117 & C828136
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

[6/11]

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.

SCHEDULE "A" PROPERTY DESCRIPTION

Address: 376-378, 384, 388-392, 398-402 & 408 St. Paul St., 19-23 Emmett St., 8-28 Ward St. & 25 Cork St.

Tax Map: 106.62-1-028; 106.62-1-029; 106.62-1-030; 106.62-1-031; 106.62-1-032
106.62-1-021; 106.63-1-016 and 106.62-1-057

1405205
11/10/2011
M.J.G.

LANDS COMPRISING N.Y.S. BROWNFIELD CLEANUP PROGRAM
WARD STREET SITE NO. C828117 & 8-28 WARD STREET SITE NO. C828136

DESCRIPTION OF LANDS DESIGNATED AS TAX MAP PARCELS 106.62-1-028, 106.62-1-029, 106.62-1-030, 106.62-1-031 AND 106.62-1-032 BEING 408, 398-402, 388-392, 384 AND 376-378 ST. PAUL STREET; LANDS DESIGNATED AS TAX MAP PARCEL 106.62-1-021 BEING 19-23 EMMETT STREET; LANDS DESIGNATED AS TAX MAP PARCEL 106.63-1-016 BEING 8-28 WARD STREET, AND LANDS DESIGNATED AS TAX MAP PARCEL 106.62-1-057 BEING 25 CORK STREET.

All that tract or parcel of land containing 3.081 acres, more or less, situate in the City of Rochester, County of Monroe, State of New York, all as shown on a map entitled "Germanow-Simon, ALTA/ACSM Land Title Survey" prepared by Stantec Consulting Services, Inc., dated November 9, 2011 and certified August 1, 2012, having Drawing No. 190500014 V-3 and being more particularly bounded and described as follows:

Beginning at a point on the southeasterly right-of-way line of St. Paul Street (66 feet wide), said point being at the intersection with the northeasterly right-of-way line of Ward Street (80' wide); thence

1. N 38°20'00" W, along said southeasterly right-of-way line, a distance of 277.70 feet to a point of intersection with the common line dividing lands now or formerly of Gordon J. Van Vliet (Tax Map No. 106.62-1-027) to the northwest and lands formerly of Mineth Realty Company (Tax 106.62-1-028) to the southeast; thence
2. N 50°56'44" E, along said common line, a distance of 241.87 feet to a point of intersection with the northwesterly right-of-way line of Cork Street (18 feet wide); thence
3. N 50°56'44" E, along the southeasterly end of remaining Cork Street, the southeasterly portion of which was abandoned per City of Rochester Ordinance No. 2011-275, a distance of 18.00 feet; thence
4. N 37°22'13" W, along the remaining existing right-of-way line of Cork Street, a distance of 49.08 feet to a point of intersection with the common line dividing lands of the County of Monroe Industrial Development Agency (Tax Map No. 106.62-1-020) on the northwest and the former lands of Upper Falls Realty Co. (Tax Map No. 106.62-1-021) on the southeast; thence
5. N 50°56'44" E, along said common line, a distance of 132.00 feet to a point on the northwesterly right-of-way line of Emmett Street (62 feet wide); thence
6. S 37°22'13" E, along the said northwesterly right-of-way line of Emmett Street, a distance of 332.26 feet to a point of curvature; thence
7. Southeasterly, continuing along the said northwesterly right-of-way line of Emmett Street, along a curve to the right, having a radius of 369.00 feet, through a central angle of 13°20'48", a distance of 85.96 feet to a point of compound curvature; thence

County: Monroe

Site Nos: C828117 & C828136

BCA Index No.: B8-0566-99-10

8. Southeasterly, continuing along the said northwesterly right-of-way line of Emmett Street, along a curve to the right, having a radius of 10.00 feet, through a central angle of $90^{\circ}00'00''$, a distance of 15.71 feet to a point of tangency on the aforementioned northeasterly right-of-way line of Ward Street; thence
9. S $65^{\circ}58'35''$ W, along the said northeasterly right-of-way line, a distance of 375.17 feet to the Point of Beginning.

SURVEY

