

**Division of Environmental Quality (DEQ)
Application for Environmental Activitiy Use Limitation (AUL)
And Environmental Institutional Control (IC)**

Date of Request: NOVEMBER 21, 2017

BIS Property Address: 18 AMBROSE STREET

S.B.L.#: 105.600-0002-059.003/0000

GIS SBL ID #: 105.60-2-59.3

Site Name: 18 AMBROSE STREET

Person Requesting the AUL: JANE MH FORBES 428-7892

Zoning: C-2

Property Acreage: 1.88

Property Owner: CITY OF ROCHESTER

Reason for AUL: TO PROTECT HUMAN HEALTH BY LIMITING EXPOSURE TO RESIDUAL

CONTAMINATION AFTER SITE CLEANUP

AUL Time Period: PERMANENT

AUL Triggers: ANY PERMITS RESULTING IN THE DISTURBANCE OF RESIDUAL SOIL OR GROUNDWATER

CONTAMINANTS

AUL Applicability: All or Portion of parcel

Internal System for Identification of AUL: PROPERTY FLAGGING SYSTEM

Environmental Management Plan: Yes or No

Attachments: NYSDEC ENVIRONMENTAL EASEMENT; SITE LOCATION MAP; BIS SCREEN PRINT

DEQ Referral Contact: JANE MH FORBES X87892

Notice to State (NYSDEC Contact) (Name) SITE NO. C828126
(Address) 625 BROADWAY
(City/State/Zip) ALBANY, NY 12233-5500

Notice to Grantor: (Name) _____
(Address) _____
(City/State/Zip) _____

Reset Form

Print Form

Submit by Email

BSSUMDS

BIS - PROPERTY SUMMARY

DATE: 11/21/2017 *

ENTRY ADDRESS: 0018 AMBROSE ST SPC ZONE:
 SBL NUMBER : 105 . 600 - 0002 - 059 . 003 / 0000 UN
 ENTER OPTION NUMBER: _ (1) (2) (3) (4) (5) (6) (7) (8) (9) (0)
 003 Y . 02 . . 010 . . .

DOCUMENT#:
 ARLM OWNER(S) AND ADDRESS
 VOLUNTEERS OF AMERICA

ARLM SPECIAL MAILING
 VOLUNTEERS OF AMERICA
 214 LAKE AV

0018 AMBROSE ST 14608 ROCHESTER NY 14608

GIS SBL NO: 1056025903 ASSESSMENT: 120,000
 LOT SIZE: 167.37 X 436.10 ACRES: 1.88
 OWNER CODE: 0070 - PRIVATE OWNED WITH EXEMPT MAP NO.:
 ASM CURR USE: 438 - PARKING LOT CENSUS TRACT: 0023.00
 ASM PREV USE: - INS AREA: W01 BLOCK: 111
 ZONING: C-2 / NORTHWEST WARD: 09
 DCD AUTH USE: - NBN AREA: W05 DISC#: 000000000

PF15-ADDR LIST PF16-SBL# LIST PF17-DOC LIST PF18-DOC DETL
 PF19-H/S VIOL PF20-ZPROP SUM PF23-QHI RESULTS

18 Ambrose St



November 21, 2017

This map is intended for general reference only.

The City of Rochester makes no representation as to the accuracy or fitness of the data presented.

City of Rochester, NY



City of Rochester, NY
Lovely A. Warren, Mayor

Notice to Municipality

October 24, 2017

Zina Lagonegro
Director of Planning & Zoning
City Hall - Room 125B
Rochester, New York 14614

Re: Environmental Easements

Dear Ms. Lagonegro:

Attached please find copies of environmental easements granted to the New York State Department of Environmental Conservation ("Department")

on October 16, 2017, recorded on October 24, 2017
by Volunteers of America of Western New York, Inc.,
for property at Part of 214 Lake Avenue and 18 Ambrose Street, Rochester, New York 14614,
Tax Map No. 105.60-2-59.003, and 105.60-2-1.002
DEC Site No: C828126.

This Environmental Easement restricts future use of the above-referenced property to restricted residential, commercial, and industrial use. Any on-site activity must be done in accordance with the Environmental Easement and the Site Management Plan which is incorporated into the Environmental Easement. Department approval is also required prior to any groundwater use.

Article 71, Section 71-3607 of the New York State Environmental Conservation Law requires that:

1. Whenever the department is granted an environmental easement, it shall provide each affected local government with a copy of such easement and shall also provide a copy of any documents modifying or terminating such environmental easement.
2. Whenever an affected local government receives an application for a building permit or any other application affecting land use or development of land that is subject to an environmental easement and that may relate to or impact such easement, the affected local government shall notify the department and refer such application to the department. The department shall evaluate whether the application is consistent with the environmental easement and shall notify the affected local government of its determination in a timely fashion, considering the time frame for the local government's review of the application. The affected local

government shall not approve the application until it receives approval from the department.

An electronic version of every environmental easement that has been accepted by the Department is available to the public at: <http://www.dec.ny.gov/chemical/36045.html>. Please forward this notice to your building and/or planning departments, as applicable, to ensure your compliance with these provisions of New York State Environmental Conservation Law. If you have any questions or comments regarding this matter, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read 'K. Brumber', with a horizontal line extending to the right.

Kimberly A. Brumber, President
Volunteers of America of Western New York, Inc.

MONROE COUNTY CLERK'S OFFICE

THIS IS NOT A BILL. THIS IS YOUR RECEIPT

ROCHESTER, NY

Receipt # 1686612

Index DEEDS

Book 11937 Page 563

No. Pages : 10

Instrument EASEMENT AGREEMENT

Date : 10/24/2017

Time : 12:49:22PM

Control # 201710240495

TT # TT0000005373

Ref 1 #

Employee : TracyC

Return To:
KNAUF SHAW LLP
1400 CROSSROADS BUILDING
2 STATE STREET
ROCHESTER, NY 14607-

VOLUNTEERS OF AMERICA OF WESTERN NEW YORK INC
COMMISSIONER OF THE DEPARTMENT OF ENVIRONMENTAL
CONSERVATION
NYSDEC

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

Total \$ 95.00

State of New York

MONROE COUNTY CLERK'S OFFICE

TRANSFER AMT

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.

TRANSFER AMT

\$1.00

ADAM J BELLO
MONROE COUNTY CLERK



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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 16th day of October, 2017, between Owner(s) Volunteers of America of Western New York, Inc., having an office at 214 Lake Ave, Rochester, NY 14608, County of Monroe, State of New York (the "Grantor"), and The People of the State of New York (the "Grantee"), acting through their Commissioner of the Department of Environmental Conservation (the "Commissioner", or "NYSDEC" or "Department" as the context requires) with its headquarters located at 625 Broadway, Albany, New York 12233,

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to encourage the remediation of abandoned and likely contaminated properties ("sites") that threaten the health and vitality of the communities they burden while at the same time ensuring the protection of public health and the environment; and

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to establish within the Department a statutory environmental remediation program that includes the use of Environmental Easements as an enforceable means of ensuring the performance of operation, maintenance, and/or monitoring requirements and the restriction of future uses of the land, when an environmental remediation project leaves residual contamination at levels that have been determined to be safe for a specific use, but not all uses, or which includes engineered structures that must be maintained or protected against damage to perform properly and be effective, or which requires groundwater use or soil management restrictions; and

WHEREAS, the Legislature of the State of New York has declared that Environmental Easement shall mean an interest in real property, created under and subject to the provisions of Article 71, Title 36 of the New York State Environmental Conservation Law ("ECL") which contains a use restriction and/or a prohibition on the use of land in a manner inconsistent with engineering controls which are intended to ensure the long term effectiveness of a site remedial program or eliminate potential exposure pathways to hazardous waste or petroleum; and

WHEREAS, Grantor, is the owner of real property located at the address of 18 Ambrose 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 105.60 Block 2 Lot 59.003, being a portion of the property conveyed to Grantor by deed dated November 13, 1997 and recorded in the Monroe County Clerk's Office in Liber and Page 8942/173.

WHEREAS, Grantor, is the owner of the eastern half of the former right-of-way known as Haidt Place in the City of Rochester, County of Monroe and State of New York, being the same as that property conveyed to Grantor by a formal abandonment in City of Rochester Ordinance No. 2017-93 which was duly passed by the Council of the City of Rochester on April 25, 2017 and approved by the Mayor of the City of Rochester on April 26, 2017.

64-119

WHEREAS, Grantor, is the owner of the western half of the former right-of-way known as Haidt Place in the City of Rochester, County of Monroe and State of New York, being the same as that property conveyed to Grantor by deed dated April 26, 2017 and recorded in the Monroe County Clerk's Office in Liber and Page 11916/1.

WHEREAS, the property subject to this Environmental Easement (the "Controlled Property") comprises approximately 1.997 acres +/- acres, and is hereinafter more fully described in the Land Title Survey dated October 19, 2014 and last revised April 20, 2017 prepared by Robert A. Vento, P.L.S. of Passero Associates, which will be attached to the Site Management Plan. The Controlled Property description is set forth in and attached hereto as Schedule A; and

WHEREAS, the Department accepts this Environmental Easement in order to ensure the protection of public health and the environment and to achieve the requirements for remediation established for the Controlled Property until such time as this Environmental Easement is extinguished pursuant to ECL Article 71, Title 36; and

NOW THEREFORE, in consideration of the mutual covenants contained herein and the terms and conditions of Brownfield Cleanup Agreement Index Number: B8-0688-05-04 as last amended September 27, 2017, 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 lessces and any person using the Controlled Property.

A. (1) The Controlled Property may be used for:

**Restricted Residential as described in 6 NYCRR Part 375-1.8(g)(2)(ii),
Commercial as described in 6 NYCRR Part 375-1.8(g)(2)(iii) and Industrial
as described in 6 NYCRR Part 375-1.8(g)(2)(iv)**

(2) All Engineering Controls must be operated and maintained as specified in the Site Management Plan (SMP);

- (3) All Engineering Controls must be inspected at a frequency and in a manner defined in the SMP;
- (4) The use of groundwater underlying the property is prohibited without necessary water quality treatment as determined by the NYSDOH or the Monroe County Department of Health to render it safe for use as drinking water or for industrial purposes, and the user must first notify and obtain written approval to do so from the Department;
- (5) Groundwater and other environmental or public health monitoring must be performed as defined in the SMP;
- (6) Data and information pertinent to Site Management of the Controlled Property must be reported at the frequency and in a manner defined in the SMP;
- (7) All future activities on the property that will disturb remaining contaminated material must be conducted in accordance with the SMP;
- (8) Monitoring to assess the performance and effectiveness of the remedy must be performed as defined in the SMP;
- (9) Operation, maintenance, monitoring, inspection, and reporting of any mechanical or physical components of the remedy shall be performed as defined in the SMP;
- (10) 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 purposes as defined in 6NYCRR 375-1.8(g)(2)(i), 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.

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, at such time as NYSDEC may require, 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 Property, all rights as fee owner of the 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 Number: C828126
Office of General Counsel
NYSDEC
625 Broadway
Albany New York 12233-5500

With a copy to: Site Control Section
Division of Environmental Remediation
NYSDEC
625 Broadway
Albany, NY 12233

All notices and correspondence shall be delivered by hand, by registered mail or by Certified mail and return receipt requested. The Parties may provide for other means of receiving and communicating notices and responses to requests for approval.

7. Recordation. Grantor shall record this instrument, within thirty (30) days of execution of this instrument by the Commissioner or her/his authorized representative in the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

8. Amendment. Any amendment to this Environmental Easement may only be executed by the Commissioner of the New York State Department of Environmental Conservation or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

9. Extinguishment. This Environmental Easement may be extinguished only by a release by the Commissioner of the New York State Department of Environmental Conservation, or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

10. Joint Obligation. If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.

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SCHEDULE "A" PROPERTY DESCRIPTION

**ENVIRONMENTAL EASEMENT AREA
18 AMBROSE STREET (VOLUNTEERS OF AMERICA)**

ALL THAT TRACT OR PARCEL OF LAND, SITUATED IN LOT 46, 20,000 ACRE TRACT, TOWNSHIP 1, SHORT RANGE, MILL SEAT TRACT, PHELPS & GORHAM PURCHASE, IN THE CITY OF ROCHESTER, COUNTY OF MONROE, STATE OF NEW YORK, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY RIGHT-OF-WAY OF AMBROSE STREET, (60' ROW), AT ITS INTERSECTION WITH THE WESTERLY RIGHT-OF-WAY OF HAIDT PLACE, (45' ROW); THENCE,

1. NORTH 29°19'43" WEST, ALONG THE WESTERLY RIGHT-OF-WAY LINE OF HAIDT PLACE, A DISTANCE OF 115.00 FEET TO A POINT; THENCE,
2. NORTH 59°46'17" EAST, ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF HAIDT PLACE, A DISTANCE OF 45.00 FEET TO A POINT; THENCE
3. NORTH 01°45'00" WEST, A DISTANCE OF 275.88 FEET TO A POINT; THENCE,
4. NORTH 30°12'25" WEST, A DISTANCE OF 160.22 FEET TO A POINT; THENCE,
5. NORTH 66°44'11" EAST, A DISTANCE OF 207.69 FEET TO A POINT; THENCE,
6. SOUTH 50°20'06" EAST, A DISTANCE OF 42.49 FEET TO A POINT; THENCE,
7. SOUTH 16°38'32" EAST, A DISTANCE OF 156.86 FEET TO A POINT; THENCE,
8. SOUTHWESTERLY, ALONG A CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 23°52'18", A RADIUS OF 620.57 FEET, AN ARC LENGTH OF 258.55 FEET, A CHORD BEARING OF SOUTH 10°24'44" WEST, AND A CHORD DISTANCE OF 256.69 FEET TO A POINT; THENCE,
9. SOUTH 79°01'56" WEST, A DISTANCE OF 6.44 FEET TO A POINT; THENCE,
10. SOUTH 65°02'15" WEST, A DISTANCE OF 45.88 FEET TO A POINT; THENCE,
11. SOUTH 19°01'58" EAST, A DISTANCE OF 9.65 FEET TO A POINT; THENCE,
12. SOUTH 64°35'23" WEST, A DISTANCE OF 42.62 FEET TO A POINT; THENCE,
13. SOUTH 29°19'43" EAST, A DISTANCE OF 105.83 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF AMBROSE STREET; THENCE,
14. SOUTH 59°46'17" WEST, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 97.37 FEET TO THE POINT OF BEGINNING, CONTAINING 1.997 ACRES ±

ALL AS SHOWN ON A MAP, PREPARED BY PASSERO ASSOCIATES, ENTITLED "BROWNFIELD AREA MAP", PROJECT NUMBER 20121554.0005, DATED OCTOBER 19, 2014, AND REVISED ON APRIL 20, 2017.