



**BROOME COUNTY - STATE OF NEW YORK**

**RICHARD R. BLYTHE, COUNTY CLERK  
60 HAWLEY STREET, P.O. BOX 2062  
BINGHAMTON, NY 13902**

**COUNTY CLERK'S RECORDING PAGE**

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**\*\*\*\* NOTICE: THIS IS NOT A BILL \*\*\*\***

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Rec'd Frm: HINMAN HOWARD & KATTELL LLP**

**Party1: LAFONTE PAVING CO LLC  
Party2: NEW YORK STATE DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION  
Town: CITY OF BINGHAMTON**

**WARNING\*\*\***

This sheet constitutes the clerks endorsement,  
required by Section 316-A (5) & Section 319 of the  
Real Property Law of the State of New York. DO  
NOT DETACH.

**Richard R. Blythe  
Broome County Clerk**

**Record and Return To:**

**HINMAN HOWARD & KATTELL LLP  
700 SECURITY MUTUAL BLDG  
80 EXCHANGE ST PO BOX 5250  
BINGHAMTON NY 13902**

## DECLARATION of COVENANTS and RESTRICTIONS

**NOTE:** This Declaration updates, corrects and supersedes prior versions filed by instruments dated 6/15/2015 (recorded in Liber 2464 of Deeds and Page #204) and 7/1/2015 (recorded in Liber 2465 of Deeds and Page #609). Those prior versions are null and void.

**THIS COVENANT** is made the 18<sup>th</sup> day of August 2015, by LaFonte Paving Co., LLC, a limited liability company authorized to do business in New York State, and having an office for the transaction of business at 7 Belden Street, Binghamton, NY 13901.

**WHEREAS**, the former Almy Brothers Site is the subject of a remedial program performed by of the New York State Department of Environmental Conservation (the "Department"), namely that parcel of real property located on 8 and 10 Jackson Street, in the City of Binghamton, County of Broome, State of New York, which is part of lands conveyed to LaFonte PavingCo., LLC by the County of Broome, a municipal corporation, by deed dated 7/1/2011 and recorded on February 4, 2011 in the County of Broome in Liber 2337 of Deeds and Page #675, and being more particularly described in "Schedule A," attached to this declaration and made a part hereof, and hereinafter referred to as "the Property"; and

**WHEREAS**, the Department approved a remedy to eliminate or mitigate all significant threats to the environment presented by the contamination disposed at the Property and such remedy requires that the Property be subject to restrictive covenants.

**NOW, THEREFORE**, LaFonte PavingCo. LLC, for itself and its successors and/or assigns, covenants that:

First, the Property subject to this Declaration of Covenants and Restrictions is as shown on a map attached to this declaration as Appendix "B" and made a part hereof.

Second, unless prior written approval by the Department or, if the Department shall no longer exist, any New York State agency or agencies subsequently created to protect the environment of the State and the health of the State's citizens, hereinafter referred to as "the Relevant Agency," is first obtained, where contamination remains at the Property, there shall be no construction, use or occupancy of the Property, including disturbance or excavation of any foundation slabs or other breaches of impervious covered surfaces, that results in disturbance or excavation of the Property which results in unacceptable human exposure to contaminated soils.

Third, before any existing buildings become occupied or new buildings constructed on the Property become occupied, the owner of the Property shall conduct an evaluation of soil vapor intrusion potential in accordance with the State's "Guidance for Evaluating Soil Vapor Intrusion in the State of New York" or equivalent and successor methodology or guidance thereto, and implement recommended actions, if any, to address exposures related to soil vapor intrusion, or in the alternative, the owner may forego the soil vapor intrusion evaluation and install a soil vapor intrusion mitigation system in any building on the Property intended for such occupation.

Fourth, the owner of the Property shall prohibit the Property from ever being used for purposes other than for Commercial or Industrial use without the express written waiver of such prohibition by the Department or Relevant Agency.

Fifth, the owner of the Property shall prohibit the use of the groundwater underlying the Property without treatment to render it safe for drinking water, if applicable, or for industrial purposes, as appropriate, and the user must first notify and obtain written approval to do so from the Department or Relevant Agency.

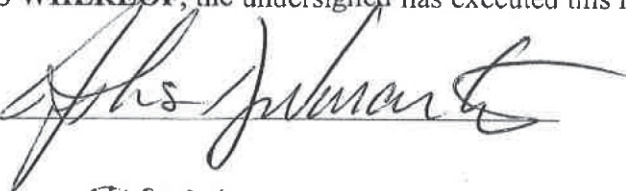
Sixth, the owner of the Property shall continue in full force and effect any institutional controls required for the Remedy and maintain such controls, unless the owner first obtains permission to discontinue such controls from the Department or Relevant Agency.

Seventh, this Declaration is and shall be deemed a covenant that shall run with the land and shall be binding upon all future owners of the Property, and shall provide that the owner and its successors and assigns consent to enforcement by the Department or Relevant Agency of the prohibitions and restrictions that the Department requires to be recorded, and hereby covenant not to contest the authority of the Department or Relevant Agency to seek enforcement.

Eighth, any deed of conveyance of the Property, or any portion thereof, shall recite, unless the Department or Relevant Agency has consented to the termination of such covenants and restrictions, that said conveyance is subject to this Declaration of Covenants and Restrictions.

IN WITNESS WHEREOF, the undersigned has executed this instrument the day written below.

By:



JOSEPH

Print Name: Antonio DeVincentis

Title: Member Date: August 18<sup>TH</sup>, 2015

STATE OF NEW YORK )

) s.s.:

COUNTY OF BROOME )



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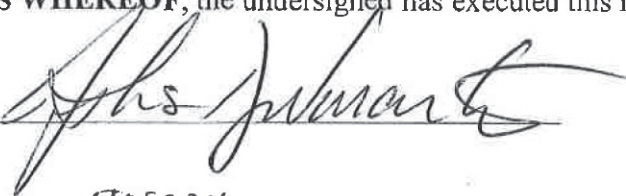
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Seventh, this Declaration is and shall be deemed a covenant that shall run with the land and shall be binding upon all future owners of the Property, and shall provide that the owner and its successors and assigns consent to enforcement by the Department or Relevant Agency of the prohibitions and restrictions that the Department requires to be recorded, and hereby covenant not to contest the authority of the Department or Relevant Agency to seek enforcement.

Eighth, any deed of conveyance of the Property, or any portion thereof, shall recite, unless the Department or Relevant Agency has consented to the termination of such covenants and restrictions, that said conveyance is subject to this Declaration of Covenants and Restrictions.

IN WITNESS WHEREOF, the undersigned has executed this instrument the day written below.

By:



JOSEPH

Print Name: ~~Antonio DeVincentis~~

State of New York  
Broome County Clerk's Office } ss.:

I, RICHARD R. BLYTHE, Clerk of the said County and of the County Court and Supreme Court of the State of New York, appointed to be held in and for said County, being Courts of Record, having a common seal, do hereby certify that I have compared the annexed copy of

..... Declaration of Covenants and Restrictions

..... La Fente Paving Co., LLC

..... New York State Department of Environmental

..... Conservation

recorded

thereof filed and entered .. August 19, 2015 ..

with the record of  
with the original

now remaining on file and of record in my office, and that the same is a correct and true copy of said original, and of the whole thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of the said County and Courts, at the City of Binghamton, this

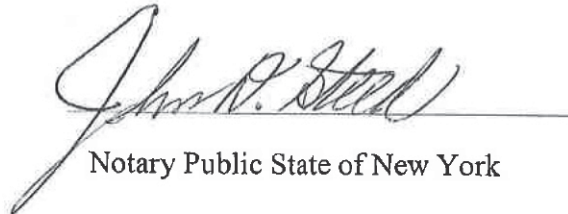
..... 19th day of August .., 2015 ..

By



Deputy Clerk

On the 18<sup>th</sup> day of August, in the year 2015, before me, the undersigned, personally appeared Joseph DeVincentis, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



Notary Public State of New York

John D Steed  
Notary Public State of New York  
Qualified In Broome County  
Commission Expires Nov. 30, 2018  
Lic. #01ST4623723

### **SCHEDULE "A"**

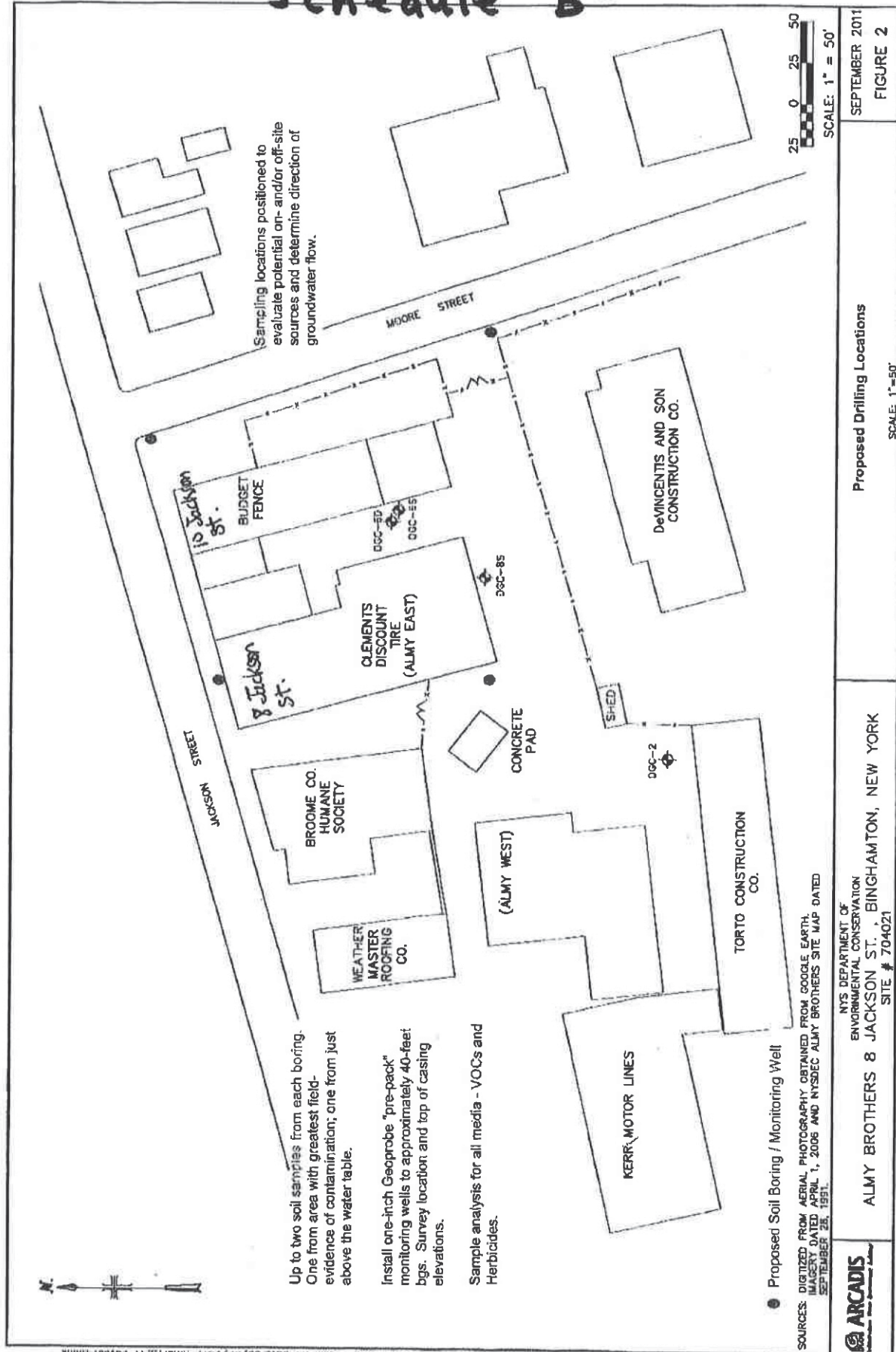
All that tract or parcel of land situated in the City of Binghamton, County of Broome, and State of New York, bounded and described as follows:

Said parcel is designated on the Broome County Tax Map as Tax Map No. 160.51-1-9, also known as 8 Jackson Street, and

All that tract or parcel of land situated in the City of Binghamton, County of Broome, and State of New York, bounded and described as follows:

Said parcel is designated on the Broome County Tax Map as Tax Map No. 160.51-1-10, also known as 10 Jackson Street.

# Schedule "B"



Sampling locations positioned to evaluate potential on- and/or off-site sources and determine direction of groundwater flow.

Up to two soil samples from each boring. One from area with greatest field-evidence of contamination; one from just above the water table.

Install one-inch Geoprobe "pre-pack" monitoring wells to approximately 40-foot bgs. Survey location and top of casing elevations.

Sample analysis for all media - VOC's and Herbicides.

● Proposed Soil Boring / Monitoring Well

SOURCES: DIGITIZED FROM AERIAL PHOTOGRAPHY OBTAINED FROM GOOGLE EARTH. IMAGERY DATED APRIL 1, 2006 AND NYSDEC ALMY BROTHERS SITE MAP DATED SEPTEMBER 28, 1991.



NY STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
ALMY BROTHERS 8 JACKSON ST., BINGHAMTON, NEW YORK  
SITE # 704021

Proposed Drilling Locations

SCALE: 1"=50'

SEPTEMBER 2011  
FIGURE 2