

The City of Poughkeepsie

New York

G. BRIAN MORGAN
Corporation Counsel

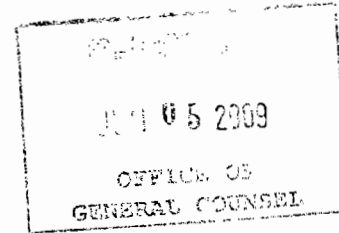
PAUL ACKERMANN
Assistant Corporation Counsel



62 Civic Center Plaza
P.O. Box 300
Poughkeepsie, New York 12602
Telephone: (845) 451-4065
Facsimile: (845) 451-4070

June 3, 2009

Yvonne M. Ward
Easement Attorney
New York State Department of
Environmental Conservation
Office of General Counsel, 14th Floor
625 Broadway
Albany, New York 12233-1500



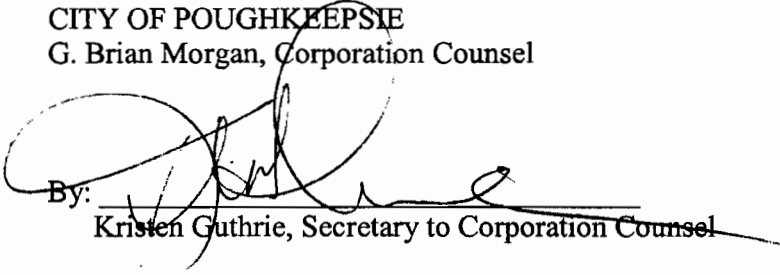
RE: Hamilton Reproduction Restoration Site
Site No: B0020
166-186 Hamilton Street, Poughkeepsie

Dear Ms. Ward:

Enclosed please find a copy of the recorded Environmental Easement with regard to the above referenced property. The recording page attached notes that the easement was recorded on June 2, 2009 in the Dutchess County Clerk's office at Document number 02-2009-2716.

Very truly yours,

CITY OF POUGHKEEPSIE
G. Brian Morgan, Corporation Counsel

By: 
Kristen Guthrie, Secretary to Corporation Counsel



Dutchess County Clerk
22 Market Street
Poughkeepsie, N.Y. 12601
(845) 486-2134

Batch# User
B112 cth

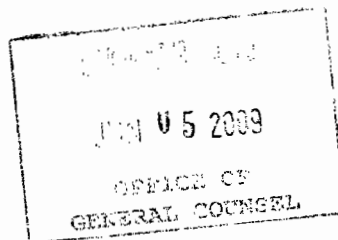
Receipt # **Date** **Time**
28970 06/02/2009 10:56:00 AM

Received From: QUEEN CITY ABSTRACT
Fee Total: \$80.00

| Document | Account | Amount | Comment | Pages |
|------------------------|------------------------------|--------|---------|-------|
| 02 Deed # 2716 | | | | |
| | 010 Record Deeds | 55.00 | EASE | 7 |
| | 030 Affidavit | 5.00 | | 1 |
| | 070 Records Mgmt - Local Fee | 1.00 | | 1 |
| | 504 Records Mgmt - State Fee | 4.75 | | 1 |
| | 511 Cultural Ed - State Fee | 14.25 | | 1 |
| | 030 Reference | 0.00 | | 1 |
| 11 TRANSFER TAX # 4803 | | | | |
| | 290 Real Estate Transfer Tax | 0.00 | | 1 |
| | 250 Mortgage Tax County | 0.00 | | |

Grantor POUGHKEEPSIE CITY **Tax District:** 31 City of Poughkeepsie
Grantee DEPT OF ENVIRONMENTAL CONSERVATION

Recorded under document # 02-2009-2716



County: Dutchess

Site No: B00020

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

THIS INDENTURE made this 22nd day of December, 2008, between Owner City of Poughkeepsie having an office at 62 Civic Center Plaza, Poughkeepsie, New York 12601 (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 of ensuring the potential 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 166-186 North Hamilton Street, in the City of Poughkeepsie, Dutchess County, New York known and designated on the map of Dutchess County as section 6162, block 54, lot 240389, comprised of approximately 1.96 acres (the "Controlled Property"); and;

WHEREAS, the Commissioner does hereby acknowledge that the Department accepts this Environmental Easement in order to ensure the protection of human health and the environment and to achieve the requirements for remediation established at this 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 covenants and mutual promises contained herein and the terms and conditions of State Assistance Contract Number B00020, Grantor grants, conveys and releases to Grantee a permanent Environmental Easement pursuant to Article 71, Title 36 of the ECL in, on, over, under, and upon the Controlled Property as more fully described herein ("Environmental Easement").

County: Dutchess

Site No: B00020

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 potential restriction of future uses of the land that are inconsistent with the above-stated purpose.

2. Institutional and Engineering Controls. The following controls 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. The Controlled Property may be used for restricted commercial/industrial use as long as the following long-term engineering controls are employed:

(i) the use of the groundwater underlying the Controlled Property for any purpose, including but not limited to, potable, process or irrigation water, is prohibited without the prior approval of the New York State Departments of Health and Environmental Conservation; and

(ii) soils on the Controlled Property must be managed, characterized, and properly disposed of in accordance with the NYSDEC laws and Regulations;

(iii) the potential for vapor intrusion into any buildings developed on the site must be evaluated, including provisions for mitigation of any impacts identified;

(iv) any subslab soil vapor mitigation system installed under any building structure must be inspected, certified, and maintained as required by the NYSDEC; and

(v) the owner must provide annual certification as required by NYSDEC that the institutional controls and engineering controls are unchanged.

B. The Controlled Property may not be used for a higher level of use such as unrestricted or restricted residential use and the above-stated engineering controls may not be discontinued without an amendment or extinguishment of this Environmental Easement.

C. Grantor covenants and agrees that until such time as the Environmental Easement is extinguished in accordance with the requirements of 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:

County: Dutchess

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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.

D. 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.

E. 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 that the controls employed at the Controlled Property are unchanged from the previous certification or that any changes to the controls employed at the Controlled Property were approved by the NYSDEC, and that nothing has occurred that would impair the ability of such control to protect the public health and environment or constitute a violation or failure to comply with any Site Management Plan for such controls and giving access to such Controlled Property to evaluate continued maintenance of such controls.

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 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 the underlying fee interest to the Controlled Property by operation of law, by deed, or by indenture, 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.

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B. If any person intentionally violates this Environmental Easement, the Grantee may revoke the Certificate of Completion provided under ECL Article 27, Title 14, or Article 56, Title 5 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. Grantor shall then have a reasonable amount of time from receipt of such notice to cure. At the expiration of said second period, Grantee may commence any proceedings and take any other appropriate action reasonably necessary to remedy any breach of this Environmental Easement in accordance with applicable law to require compliance with the terms of this Environmental Easement.

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 its enforcement rights in the event of a subsequent breach of or noncompliance with any of the terms of this Environmental Easement.

6. Notice. Whenever notice to the State (other than the annual certification) or approval from the State 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 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: Environmental Easement Attorney
Office of General Counsel
NYSDEC
625 Broadway
Albany New York 12233-1500

Such correspondence shall be delivered by hand, or 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. This Environmental Easement may be amended only by an amendment executed by the Commissioner of the New York State Department of Environmental Conservation 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 and filed

County: Dutchess

Site No: B00020

Grantee's Acknowledgment

STATE OF NEW YORK)

COUNTY OF ALBANY)

ss:

On the 22 day of *December*, in the year 2008, before me, the undersigned, personally appeared ALEXANDER B. GRANNIS, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity as Commissioner of the State of New York Department of Environmental Conservation, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

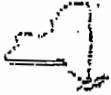
Notary Public - State of New York

CINDYLOU M. FRINKS-DIXON
Notary Public, State of New York
No. 4203685
Qualified in Albany County
Commission Expires August 24, 20 *09*

EDMS # 295772

Notary Public
CINDYLOU M. FRINKS-DIXON
No. 4203685
Qualified in Albany County
Commission Expires August 24, 2009

TP-584.2 (10/96)



Recording Office Time Stamp

Real Estate Transfer Tax Return For Public Utility Companies' and Governmental Agencies' Easements and Licenses

This form may only be used by public utility companies regulated by the Public Service Commission and governmental agencies for the recording of easements and licenses where the consideration for the grant of such easement or license is \$500.00 or less.

Name of grantee (public utility company or governmental agency)

The New York State Department of Environmental Conservation

Federal employer identification number

14-6013200

(If applicable)

Address of grantee
625 Broadway, Albany, NY 12233-1500

Name and telephone number of person to contact

Mary vonWergers (518) 402-8495

| Name(s) of Grantor Of Easement or License | Address of Property | Consideration Given For Easement or License |
|--|---|--|
| 1. CITY OF Poughkeepsie | 166-186 North | 0.00 |
| 2. | Hamilton Street | |
| 3. | City of Poughkeepsie | |
| 4. | Dutchess County, NY | |
| 5. | ENVIRONMENTAL EASEMENT HELD BY NYSDEC | |
| 6. | PURSUANT TO TITLE 36 OF ARTICLE 71 | |
| 7. | OF THE NYS ENVIRONMENTAL CONSERVATION LAW | |
| 8. | SITE NO. B-00020 | |
| 9. | | |
| 10. | | |
| 11. | | |
| 12. | | |
| 13. | | |
| 14. | | |

15. If more than fifteen conveyances are to be recorded, attach a schedule of such other conveyances.

Signature of Grantee

I certify that the grantee is a public utility regulated by the Public Service Commission or is a governmental agency and the grantee of the easements and/or licenses above; that it is true to the best knowledge of the grantee that the granting of each such easement and/or license is exempt from Real Estate Transfer Tax imposed by Article 31 of the Tax Law by reason that each such conveyance is for a consideration of five hundred dollars or less and/or the conveyance is being made to a governmental agency.

THE PEOPLE OF THE STATE OF NY ACTING THROUGH THEIR COMMISSIONER OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Signature of partner, officer of corporation, governmental official, NYSDEC Office of General Counsel

Joanna M. Ward NYSREC-09C
518-402-95217 SENIOR ATTORNEY