

Enclosure 1

Certification Instructions

I. Verification of Site Details (Box 1 and Box 2):

Answer the three questions in the Verification of Site Details Section. The Owner and/or Qualified Environmental Professional (QEP) may include handwritten changes and/or other supporting documentation, as necessary.

II. Certification of Institutional Controls/ Engineering Controls (IC/ECs)(Boxes 3, 4, and 5)

1.1.1. Review the listed IC/ECs, confirming that all existing controls are listed, and that all existing controls are still applicable. If there is a control that is no longer applicable the Owner / Remedial Party should petition the Department separately to request approval to remove the control.

2. In Box 5, complete certifications for all Plan components, as applicable, by checking the corresponding checkbox.

3. If you cannot certify "YES" for each Control listed in Box 3 & Box 4, sign and date the form in Box 5. Attach supporting documentation that explains why the **Certification** cannot be rendered, as well as a plan of proposed corrective measures, and an associated schedule for completing the corrective measures. Note that this **Certification** form must be submitted even if an IC or EC cannot be certified; however, the certification process will not be considered complete until corrective action is completed.

If the Department concurs with the explanation, the proposed corrective measures, and the proposed schedule, a letter authorizing the implementation of those corrective measures will be issued by the Department's Project Manager. Once the corrective measures are complete, a new Periodic Review Report (with IC/EC Certification) must be submitted within 45 days to the Department. If the Department has any questions or concerns regarding the PRR and/or completion of the IC/EC Certification, the Project Manager will contact you.

III. IC/EC Certification by Signature (Box 6 and Box 7):

If you certified "YES" for each Control, please complete and sign the IC/EC Certifications page as follows:

- For the Institutional Controls on the use of the property, the certification statement in Box 6 shall be completed and may be made by the property owner or designated representative.
- For the Engineering Controls, the certification statement in Box 7 must be completed by a Professional Engineer or Qualified Environmental Professional, as noted on the form.



Enclosure 2
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Periodic Review Report Notice
Institutional and Engineering Controls Certification Form



	Site Details	
Site No.	B00055	Box 1
Site Name Gansevoort/Franklin Street Parcel		
Site Address: Corner of Gansevoort and Franklin Streets Zip Code: 12202- City/Town: Albany (C) County: Albany Site Acreage: 0.6		
Reporting Period: December 29, 2016 to April 29, 2018		
		YES NO
1. Is the information above correct?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
If NO, include handwritten above or on a separate sheet.		
2. Has some or all of the site property been sold, subdivided, merged, or undergone a tax map amendment during this Reporting Period?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Has there been any change of use at the site during this Reporting Period (see 6NYCRR 375-1.11(d))?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Have any federal, state, and/or local permits (e.g., building, discharge) been issued for or at the property during this Reporting Period?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
If you answered YES to questions 2 thru 4, include documentation or evidence that documentation has been previously submitted with this certification form.		
5. Is the site currently undergoing development?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
		Box 2
		YES NO
6. Is the current site use consistent with the use(s) listed below? Commercial and Industrial	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Are all ICs/ECs in place and functioning as designed?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
IF THE ANSWER TO EITHER QUESTION 6 OR 7 IS NO, sign and date below and DO NOT COMPLETE THE REST OF THIS FORM. Otherwise continue.		
A Corrective Measures Work Plan must be submitted along with this form to address these issues.		
_____ Signature of Owner, Remedial Party or Designated Representative		_____ Date

Parcel

Engineering Control

1 foot thick Cover System consisting of Type 2 Subbase/Crusher Run

Box 5

Periodic Review Report (PRR) Certification Statements

1. I certify by checking "YES" below that:

a) the Periodic Review report and all attachments were prepared under the direction of, and reviewed by, the party making the certification;

b) to the best of my 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 the information presented is accurate and complete.

YES NO

2. If this site has an IC/EC Plan (or equivalent as required in the Decision Document), for each Institutional or Engineering control listed in Boxes 3 and/or 4, I certify by checking "YES" below that all of the following statements are true:

(a) the Institutional Control and/or Engineering Control(s) employed at this site is unchanged since the date that the Control was put in-place, or was last approved by the Department;

(b) nothing has occurred that would impair the ability of such Control, to protect public health and the environment;

(c) access to the site will continue to be provided to the Department, to evaluate the remedy, including access to evaluate the continued maintenance of this Control;

(d) nothing has occurred that would constitute a violation or failure to comply with the Site Management Plan for this Control; and

(e) if a financial assurance mechanism is required by the oversight document for the site, the mechanism remains valid and sufficient for its intended purpose established in the document.

YES NO

IF THE ANSWER TO QUESTION 2 IS NO, sign and date below and DO NOT COMPLETE THE REST OF THIS FORM. Otherwise continue.

A Corrective Measures Work Plan must be submitted along with this form to address these issues.

Signature of Owner, Remedial Party or Designated Representative

Date

IC CERTIFICATIONS
SITE NO. B00055

Box 6


SITE OWNER OR DESIGNATED REPRESENTATIVE SIGNATURE

I certify that all information and statements in Boxes 1, 2, and 3 are true. I understand that a false statement made herein is punishable as a Class "A" misdemeanor, pursuant to Section 210.45 of the Penal Law.

I _____ at _____,
print name print business address

am certifying as _____ (Owner or Remedial Party)

for the Site named in the Site Details Section of this form.



Signature of Owner, Remedial Party, or Designated Representative
Rendering Certification

May 11, 2018
Date

IC/EC CERTIFICATIONS

Box 7

Qualified Environmental Professional Signature

I certify that all information in Boxes 4 and 5 are true. I understand that a false statement made herein is punishable as a Class "A" misdemeanor, pursuant to Section 210.45 of the Penal Law.

I MICHAEL MARTIN at 112 STATE STREET, ALBANY, NY 12207
print name print business address

am certifying as a Qualified Environmental Professional for the County of Albany
(Owner or Remedial Party)



Signature of Qualified Environmental Professional, for the Owner or Remedial Party, Rendering Certification



Stamp
(Required for PE)

5/4/2018
Date

History of Gansevoort Franklin St. Brownfield Site

I. Executive Summary

The Gansevoort and Franklin St. brownfield site is .6 acres of vacant land on the corner of Gansevoort and Franklin Streets in the City of Albany, NY. The site was occupied by Wm. McEwan Coal Company in the 40's and 50's and then by McArdle and Cazazzar Trucking Company in the 60's and acquired by the County through in rem foreclosure in 1973.

An environmental investigation was performed in 1988, and 1991 to determine potential contamination. Both found potential soil contamination from underground storage tanks and piping. Presence of metals, semi-volatile organic compounds were determined to be a threat through contact with soil. Found levels butanone, benzene, toluene and acetone. The County conducted a more detailed site investigation 1999-2000 with funding from the Environmental Bond Act. DEC prepared a Remedial Alternatives Report and a remedy for the site was recommended. Based on this information, a Record of Decision was approved by DEC and DOH in March 2001. The remedy approved in the ROD included excavation of small hot spot, covering the site with 1 foot of clean topsoil or other approved cover, and implementation of a deed restriction. Interim measures included removal of 4 underground tanks, associated piping and surrounding contaminated soil and addition of a deed restriction.

NY Works money became available in 2013-2014 and the County applied for and received funding to complete an updated site assessment and implement the approved remedy. The site was found to contain metals and semi-volatile organic compounds above commercial soil cleanup objectives. A one-foot thick site cover consisting of type 2 sub-base gravel was placed on the site. Upon completion of the project, the County received a Certificate of Completion in December of 2016.

The property is still owned by Albany County. Since completion of the remediation, the site has been maintained by periodically inspecting the integrity of the topsoil cover, clearing litter, and repairing the fencing. The remedial program continues to be effective and there are no areas of non-compliance.

No changes to the SMP are recommended. The ultimate disposition of the parcel is not known at this time. It is the county's intent to convey the parcel to a private owner. It is recommended that periodic reporting continue until the site is removed from county ownership.

II. Site Overview

The site is located at the corner of Gansevoort and Franklin Streets in the City of Albany, NY. (See attached map). It is comprised of seven parcels; 76.73-2-45,76.73-2-44,76.73-2-43,76.73-2-42,76.73-2-41,76.73-2-40,76.73-2-48.1. The site is located in downtown Albany and is approximately .5 mile from the Hudson River. The surrounding uses are a newly constructed liquor store, a church, a vacant bath house and warehoused. There are residential neighborhoods in close proximity. The site is a flat, vacant lot with minimal vegetation.

The chronology of remediation is described in the executive summary in Part I. The components of the selected remedy included:

Engineering control - installation of one foot of type 2 sub-base crusher run gravel over the site.

Institutional Controls- Site Management Plan, Environmental Easement, Groundwater Use Restriction, and Land Use Restriction.

There have been no changes to the selected remedy or controls since completion of the project.

III. Evaluate Remedy Performance, Effectiveness and Protectiveness

The applied remedy effectively achieved the remediation goals for the site. As evidenced in the attached pictures, the 1 ft gravel cover is intact providing an adequate barrier to the affected soils. The fencing installed around the site helps to keep foot and vehicle traffic off the site to keep the cover material in place.

IV. IC/EC Plan Compliance Report

Engineering Control - installation of one foot of type 2 sub-base crusher run gravel over the site. The purpose of the control was to cover and secure contaminated soils. This control is evaluated by periodic visual inspection of the site.

Institutional Control – An Environmental Easement (see attached) is in place 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. This includes engineering and institutional controls, a land use restriction, and adherence to a site management plan.

Institutional Control – A groundwater use restriction was applied to provide possible exposure to contaminated groundwater. The use of groundwater underlying the property is prohibited without necessary water quality treatment as determined by the NYSDOH or the Albany 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. The restriction remains in place and groundwater has not been used on the site.

Institutional Control – A land use restriction was placed on the site that restricts the use on the property to commercial and light industrial uses only. The site is currently vacant.

Institutional Control – The site management plan requires that the engineering and institutional controls are maintained and the reporting and notification requirements are adhered to. There are also standards for site disturbance. To date, the site is vacant. There has not been any reuse or disturbance of the site.

All elements of the Environmental Easement are in place and enforced in the name of Albany County, the owner of the site


Site Management Inspection Form
 Gansevoort/Franklin Street
 Site No. B00055
 Albany, NY

Item	Yes	No	N/A	Comments
Is the cover system in good condition?	✓			
Is there any evidence of disturbance of the site cover?		✓		
Are the on-site trees alive and in good condition?	✓			
Has any intrusive activity, excavation, or construction occurred at the site?		✓		
Was there a change in the use of the site or were there new structures constructed on the site?		✓		
Has there been any debris disposed of at the site?		✓		
Has there been any change in site conditions since last reporting event?		✓		
Additional observations, conclusions, recommendations? (attach photos/sketches if necessary)	Property is inspected weekly.			

Name of Inspector: Michael Ragini

Inspector's Title: Code Enforcement officer

Inspector's Company: Albany County D.G.S.

Signature of Inspector: 

Date: 4/6/18

Gansevoort/Franklin Street, ERP Site #B00055, Site Location Map



Department of
Environmental
Conservation







**Department of
Environmental
Conservation**

Environmental Site Remediation Database Search Details

Site Record

Administrative Information

Site Name: Gansevoort/Franklin Street Parcel

Site Code: B00055

Program: Environmental Restoration Program

Classification: C

EPA ID Number:

Location

DEC Region: 4

Address: Corner of Gansevoort and Franklin Streets

City: Albany (C) Zip: 12202-

County: Albany

Latitude: 42.638253001

Longitude: -73.758024564

Site Type:

Estimated Size: 0.559 Acres

Institutional And Engineering Controls

Control Type:

[Environmental Easement](#)

Control Elements:

Ground Water Use Restriction

Soil Management Plan

Cover System

Landuse Restriction

Site Management Plan

IC/EC Plan

Site Owner(s) and Operator(s)

Current Owner Name: Albany County

Current Owner(s) Address: 112 State St
Albany, NY, 12207

Site Document Repository

Name: John A Howe Branch Library

Address: 105 Schuyler Street

Albany, NY 12202

Site Description

Location: The Gansevoort/Franklin Street Environmental Restoration Program (ERP) Site is a 0.6 acre vacant property in the south end of the City of Albany located on the corner of Gansevoort and Franklin Streets. The Site is a few blocks from Downtown Albany and I-787 and the Hudson River is approximately 0.5 miles to the east. The Site is situated in a moderately developed commercial/industrial area. A newly built liquor store borders the northwest corner of the Site. St. John/St. Ann Parish and a vacant public bathhouse are located immediately north. A gas station/convenience store is located adjacent to the northwest corner of the Site. Warehouses are located to the east and south, including a commercial business located to the south. Although residences are not adjacent to the Site, there are residential neighborhoods in close proximity to the Site. **Site Features:** The Site is relatively flat with a few trees and consists of a total of seven tax parcels. **Current Zoning and Land Use:** The current Environmental Easement allows the Site to be used for commercial or light industrial use and is currently vacant. **Past Use of the Site:** The Site is believed to have been residential until approximately 1945 when it was acquired by Wm. McEwan Coal Company and served as a coal yard in the late 1940's and mid 1950's. The McArdle and Cazazzar Trucking Company used the Site in the late 1960's. The property was subsequently acquired by Grand Realty Company and remains vacant. It was acquired by Albany County through foreclosure in 1973. **Site Geology and Hydrogeology:** Historic fill was found to depths of approximately 4 feet below ground surface (bgs). Underlying the fill layer are lacustrine silts and clays of varying thickness which were deposited in pre-glacial Lake Albany. Bedrock was not encountered during previous investigations, but regional geology suggests it consists of shale with minor amounts of mudstone and sandstone. The Site remedy called for a Site Cover. As such, approximately 1 foot of Type 2 Subbase/Crusher Run was placed over the Site. Site groundwater flows to the east, consistent with the regional flow towards the Hudson River. The depth to groundwater was found to range between 4 and 9 feet below ground surface (bgs).

Summary of Project Completion Dates

Projects associated with this site are listed in the [Project Completion Dates](#) table and are grouped by Operable Unit (OU). A site can be divided into a number of operable units depending on the complexity of the site and the number of issues associated with a site. Sites are often divided into operable units based on the media to be addressed (such as groundwater or contaminated soil), geographic area, or other factors.

Contaminants of Concern (Including Materials Disposed)

Contaminant Name/Type

silver

zinc

ethylbenzene
thallium
1,2,4-trimethylbenzene
benzo(a)anthracene
benzo(b)fluoranthene
chrysene
dibenz[a,h]anthracene
copper
antimony
lead
mercury
arsenic
benzo(a)pyrene
benzo[k]fluoranthene
indeno(1,2,3-CD)pyrene

Site Environmental Assessment

Remediation at the site is complete. Prior to remediation, the primary contaminants of concern were polycyclic aromatic hydrocarbons (PAHs) and metals which now reside beneath a site cover. Prior to the 2001 Record of Decision (ROD), four 1,500 gallon gasoline USTs and associated soils contaminated with petroleum related volatile organic compounds (VOCs) were removed as an Interim Remedial Measure (IRM). Following removal of USTs and contaminated soils back in 2000, marginal levels of petroleum-related VOCs remained in on-site groundwater over standards, which are expected to naturally attenuate over time. Potable groundwater use is prohibited.

Site Health Assessment

Remedial actions are complete and measures are in place to control the potential for coming in contact with residual contamination remaining at the site.

[For more Information: E-mail Us](#)

[Refine Current Search](#)

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

THIS INDENTURE made this 29th day of November, 2016 between Owner(s) County of Albany, having an office at 112 State Street, Albany, New York 12207, County of Albany, 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 170, 172, 174, 180, 182 and 184 Franklin Street and Rear 366 South Pearl Street in the City of Albany, County of Albany and State of New York, known and designated on the tax map of the County of Albany as tax map parcel numbers: Section 76.73 Block 2 Lots 40, 41, 42, 43, 44, 45 and 48.1, being the same as that property conveyed to Grantor by deed dated November 4, 2010 and recorded in the Albany County Clerk's Office in Liber 2991 of Deeds at page 889 on November 9, 2010. The property subject to this Environmental Easement (the "Controlled Property") comprises approximately 0.559 +/- acres, and is hereinafter more fully described in the Land Title Survey dated September 30, 1999 prepared by Michael A. Venturo, P.L.S., 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 State Assistance Contract Number: C301313, 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) The use of groundwater underlying the property is prohibited without necessary water quality treatment as determined by the NYSDOH or the Albany 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 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.

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: B00055
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.

Remainder of Page Intentionally Left Blank

IN WITNESS WHEREOF, Grantor has caused this instrument to be signed in its name.

County of Albany:

By: Daniel P. McCoy

Print Name: Daniel P. McCoy

Title: County Executive Date: 10/27/16

Grantor's Acknowledgment

STATE OF NEW YORK)
) ss:
COUNTY OF)

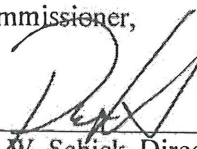
On the 1ST day of November, in the year 2016, before me, the undersigned, personally appeared Daniel P. McCoy, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they 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.

Melanie J. Bunzey
Notary Public - State of New York

MELANIE J. BUNZEY
Notary Public, State of New York
Qualified in Albany County
No. 01BU6048902
Commission Expires Oct. 2, 2018

THIS ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY 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

STATE OF NEW YORK)
) ss:
COUNTY OF ALBANY)

On the 29th day of November, in the year 2016 before me, the undersigned, personally appeared Robert W. Schick, 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/ executed the same in his/her/ capacity as Designee of the Commissioner of the State of New York Department of Environmental Conservation, and that by his/her/ 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

David J. Chiusano
Notary Public, State of New York
No. 01CH5032146
Qualified in Schenectady County
Commission Expires August 22, 2018

SCHEDULE "A" PROPERTY DESCRIPTION

METES AND BOUNDS DESCRIPTION

ALBANY COUNTY BROWNFIELDS AT GANSEVOORT AND FRANKLIN STREETS

All that certain piece or parcel of land situate in the City of Albany, County of Albany, State of New York, and being more particularly bounded and described as follows:

Beginning at a point on the northern boundary of Gansevoort Street at its intersection with the westerly boundary of Franklin Street, thence; N 71 deg.15' 05" W along the northerly boundary of Gansevoort Street a distance of 174.55 feet to a point on the division line between lands of the County of Albany on the east and lands of Edward Mokhiber as described in Liber 1135 of Deeds at Page 515 on the west, thence; along the last mentioned division line the following five (5) courses and distances, (1) N 18 deg. 10' 31" E, 28.97 feet to a point, thence; (2) S 80 deg. 42' 29" E, 4.42 feet to a point, thence; (3) N 10 deg. 55' 31" E, 32.58 feet to a point, thence; (4) S 89 deg. 34' 31" W, 1.69 feet to a point, thence; (5) N 00 deg. 10' 05" W, 22.50 feet to a point at its intersection with the division line between lands of the aforementioned Edward Mokhiber on the south and lands of Richard Mokhiber as described in Liber 2259 of Deeds at Page 1089 on the north, thence; along the division line between said lands of County of Albany on the east and lands of Richard Mokhiber on the west, N 00 deg. 32' 26" W a distance of 50.02 feet to a point at its intersection with the division line between lands of the aforementioned Richard Mokhiber on the south and lands of Vesta Properties, Inc. as described in Liber 2244 of Deeds at Page 295 on the north, thence; N 89 deg. 15' 58" E a distance of 145.78 feet along the division line between said lands of the County of Albany on the south and lands of the said Vesta Properties, Inc., lands of the City of Albany (no deed found), and lands of Barn Raisers, Inc. as described in Liber 2489 of Deeds at Page 527 on the north, to a point on the westerly boundary of said Franklin Street; thence S 00 deg. 39' 34" E along said boundary a distance of 189.29 feet to the point and place of beginning, containing 0.559 acres or 24,350 square feet, more or less. All as shown on a map prepared by OM P. POPLI, P.E., L.S., P.C. dated September 30, 1999.

The above described property is subject to all easements and restrictions of record.

