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October 28, 2013

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Robert W. Schick, P.E.  
New York State Department of Environmental Conservation  
Division of Environmental Remediation  
Office of the Director, 12th Floor  
625 Broadway  
Albany, NY 12233-7011

Re: *Recording of Notice of Certificate of Completion*  
*Site Name: Former Tri-State Industrial Laundries Site*  
*Site No.: C633068*  
*City of Utica, Oneida County*

Dear Mr. Schick:

On behalf of the owner of the referenced site, BRE Lincoln Avenue, LLC ("BRE"), and in accordance with the requirements of 6 N.Y.C.R.R. § 375-1.9(d)(3), enclosed please find a copy of the proof of recording in the Oneida County Clerk's Office on October 23, 2013 of the Notice of Certificate of Completion for the site in the form of the recording receipt and a time-stamped copy of the Notice.

Please let me know if you have any questions. Thank you.

Sincerely,

BOND SCHOENECK & KING, PLLC

  
Virginia C. Robbins

Enclosure

cc (with enclosure) (by electronic mail only):  
Mr. Stephen H. Bussey  
Peter S. Ouderkirk, P.E.



# ONEIDA COUNTY CLERK

SANDRA J. DEPERNO

## Receipt

Receipt Date: 10/23/2013 12:08:29 PM

RECEIPT # 2013549765

Recording Clerk: PF

Cash Drawer: CASH1

Rec'd Frm: BOND SCHOENECK & KING PLLC

Rec'd In Person

Instr#: R2013-001487

DOC: AGREEMENT IN DEEDS

DEED STAMP: 1727

OR Party: BRE LINCOLN AVENEUE LLC

EE Party: LINCOLN C/B PROPERTIES INC

### Recording Fees

Cover Page	\$20.00
Number of Pages	\$40.00
Cultural Ed	\$14.25
Records Management - County	\$1.00
Records Management - State	\$4.75
TP584	\$5.00

### Transfer Tax

Transfer Tax	\$0.00
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DOCUMENT TOTAL: ----> \$85.00

### Receipt Summary

TOTAL RECEIPT: ----> \$85.00

TOTAL RECEIVED: ----> \$85.00

CASH BACK: ----> \$0.00

### PAYMENTS

Check # 183233 -> \$85.00

**NOTICE OF CERTIFICATE OF COMPLETION**  
**Brownfield Cleanup Program**  
**6 NYCRR Part 375-1.9(d)**

***Former Tri-State Industrial Laundries, Site No. C633068***

**1612, 1616, 1634 and 1642 Lincoln Avenue in the City of Utica, County of Oneida and State of New York; Tax Map Identification Number(s): Section 318.62 Block 2 Lot 10.1-10.2; Section 318.62 Block 2 Lot 11.1-11.2; Section 318.62 Block 2 Lot 12.1-12.2; Section 318.62 Block 2 Lot 13; Section 318.62 Block 2 Lot 14**

**PLEASE TAKE NOTICE**, the New York State Department of Environmental Conservation (Department) has issued a Certificate of Completion (Certificate) pursuant to Article 27, Title 14 of the New York State Environmental Conservation Law (ECL) to, Lincoln C/B Properties, Inc., c/o Fitzgerald, DePietro and Wojnas, 291 Genesee Street, Utica, County of Oneida, State of New York 13501 and BRE Lincoln Avenue, LLC c/o Fitzgerald, DePietro and Wojnas, 291 Genesee Street, Utica, County of Oneida, State of New York 13501 for a parcel approximately 1.66 acres located at the 1612, 1614, 1634 and 1642 Lincoln Avenue in the City of Utica, Oneida County.

**PLEASE TAKE NOTICE**, the Certificate was issued upon satisfaction of the Commissioner, following review by the Department of the final engineering report and data submitted pursuant to the Brownfield Site Cleanup Agreement, as well as any other relevant information regarding the Site, that the remediation requirements set forth in ECL Article 27, Title 14 have been or will be achieved in accordance with the time frames, if any, established in the remedial work plan.

**PLEASE TAKE NOTICE**, the remedial program for the Site has achieved a cleanup level that would be consistent with the following categories of uses (actual site use is subject to local zoning requirements):

- ☐ Residential Use, as set forth in 6 NYCRR 375-1.8(g)(2)i.
- ☐ Restricted Residential Use, as set forth in 6 NYCRR 375-1.8(g)(2)ii.
- ☐ Commercial Use, as set forth in 6 NYCRR 375-1.8(g)(2)iii.
- ☒ Industrial Use, as set forth in 6 NYCRR 375-1.8(g)(2)iv.

**PLEASE TAKE NOTICE**, since the remedial program relies upon use restrictions or the long term employment of institutional or engineering controls; such institutional or engineering controls are contained in an Environmental Easement granted pursuant to ECL Article 71, Title 36 which has been duly recorded in the Recording Office for Oneida County as recorded on July 18, 2013.

**PLEASE TAKE NOTICE**, the Environmental Easement requires that the approved site management plan (SMP) for this property be adhered to. The SMP, which may be amended from time to time, may include sampling, monitoring, and/or operating a treatment system on the property, providing certified reports to the NYSDEC, and generally provides for the management of any and all plans and limitations on the property. A copy of the SMP is available upon request by writing to the Department's Division of Environmental Remediation, Site Control Section, 625 Broadway, Albany, New York 12233.

**R2013-001487**  
10/23/2013 12:08:28 PM  
AGREEMENT IN DEEDS  
8 Pages  
Sandra J. DePerno, Oneida County Clerk

Clerk: PF

2013549765

Former Tri-State Industrial Laundries, Site C633068  
1634 Lincoln Avenue, Utica, New York 13502

**PLEASE TAKE NOTICE**, provided that the Environmental Easement, SMP and Certificate are complied with, the Certificate holder(s) shall be entitled to the liability limitation provided in ECL Section 27-1421. The liability limitation shall run with the land, extending to the Certificate holder's successors or assigns through acquisition of title to the Site and to a person who develops or otherwise occupies the Site, subject to certain limitations as set forth in ECL Section 27-1421. The liability limitation shall be subject to all rights reserved to the State by ECL Section 27-1421.2 and any other applicable provision of law.

**PLEASE TAKE NOTICE**, the Certificate may entitle the Certificate holder(s) to tax credits in accordance with Tax Law Sections 21, 22 and 23.

**PLEASE TAKE NOTICE**, any change of use of the site, as defined in 6 NYCRR 375, must be preceded by notice to the Department in accordance with 6 NYCRR 375-1.11(d). A transfer of any or all of the property constitutes a change of use.

**PLEASE TAKE NOTICE**, the Certificate may be only be transferred to the Certificate holder's successors or assigns upon transfer or sale of the Site as provided by ECL Section 27-1419.5 and 6 NYCRR Part 375-1.9. Failure to comply with the regulatory requirements for transfer **WILL** bar the successors and assigns from the benefits of the Certificate.

**PLEASE TAKE NOTICE**, the Certificate may be modified or revoked by the Commissioner as set forth in the applicable regulations.

**PLEASE TAKE NOTICE**, the Certificate may be revoked if the Environmental Easement as implemented, if applicable, is not protective or enforceable.

**PLEASE TAKE NOTICE**, a copy of the Certificate can be reviewed at the NYSDEC's Region 6 Office located at 317 Washington Street, Watertown, New York 13601, by contacting the Regional Environmental Remediation Engineer.

**WHEREFORE**, the undersigned has signed this Notice of Certificate

BRE Lincoln Avenue, LLC  
c/o Fitzgerald, DePietro and Wojnas

By: S. H. B. [Signature]

Title: Member

Date: 10/16/13

Former Tri-State Industrial Laundries, Site C633068  
1634 Lincoln Avenue, Utica, New York 13502

Lincoln C/B Properties, Inc.  
c/o Fitzgerald, DePietro and Wojnas

By: S.H. Bussey

Title: President

Date: 10/16/13

STATE OF NEW YORK ) SS:  
COUNTY OF )

On the 16 day of October, in the year 2013, before me, the undersigned, personally appeared Stephen Bussey, 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.

Patricia A. Cappelli  
Signature and Office of individual  
taking acknowledgment

**PATRICIA A. CAPPELLI**  
Notary Public in the State of New York  
Appointed in Oneida County  
My Commission Expires Feb 17, 2015  
4885484

**Please record and return to:**  
BRE Lincoln Avenue, LLC  
c/o Fitzgerald, DePietro and Wojnas  
291 Genesee Street  
Utica, NY 13501

Lincoln C/B Properties, Inc.  
c/o Fitzgerald, DePietro and Wojnas  
291 Genesee Street  
Utica, NY 13501

12/03/09

## SCHEDULE "A" PROPERTY DESCRIPTION

Tri-State Industrial Laundries  
Brownfield Cleanup Project  
NYSDEC Site No. C633068

Record Description for #1612, 1616, 1634 & 1642 Lincoln Avenue

### PARCEL I:

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Utica, County of Oneida and State of New York shown on a map entitled "Map showing property of Frederick Gillmore on Lincoln & Wheeler Avenue made by J. Kemper, Civil Engineer" and dated March 18, 1913 which map has been filed in the Oneida County Clerk's Office described as follows: COMMENCING at an iron pipe shown on said map in the northerly line of Lincoln Avenue in the southwesterly corner of the property owned by the party of the first part and running thence northerly at right angles to Lincoln Avenue 87.17 feet to an iron pipe; thence westerly at an angle of 83° 16' 4-12 feet to an iron pipe; thence northerly 13.17 feet to an iron pipe thence easterly 8.67 feet to an iron pipe thence northerly at right angles to Wheeler Avenue 62 feet to the southerly line of Wheeler Avenue; thence easterly along the southerly line of Wheeler Avenue 15.24 feet; thence southerly at right angles to Wheeler Avenue 15.24 feet; thence southerly at right angles to Wheeler Avenue northerly line of Lincoln Avenue and thence westerly along the northerly line of Lincoln Avenue 20 feet to the place of beginning.

### PARCEL II:

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Utica, County of Oneida and State of New York, more particularly described as being the northerly four (4) feet from front to rear of Lot 118 as shown and distinguished upon a map and plot of the "Allotment of the Chenango Canal land" within the City of Utica, made by C. W. Adams surveyor posted and filed in the Office of the City Surveyor of the City of Utica, on or about the 29th day of December 1888, and a duplicate of which has been and was filed in the Clerk's Office of Oneida County on or about the 27th day of March, 1889.

### PARCEL III:

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Utica, County of Oneida and State of New York, known and designated as the southerly 40 feet wide in front on Lincoln Avenue, 35 feet wide in the rear taken from the southerly side of Lot No. 17, and the northerly 5 feet wide, front and rear, of Lot No. 18, as laid out and described on a map of property in Utica, N.Y., made for William B. Lane and Frederick G. Fincke, executors of the estate of George H. Wiley, deceased, made from actual survey October 14, 1904, by C. S. Taylor, and filed in the Oneida County Clerk's Office 18, 1904, to which reference is hereby made. Said pieces or portions of said lots taken together make a lot 45 feet wide in front on the northwesterly side of Lincoln Avenue 40 feet in width in the rear and 95 feet, more or less, deep as laid out on said map.

### PARCEL IV:

ALL THAT PART OR PORTION OF "ABANDONED CHENANGO CANAL LAND", situated in the City of Utica, County of Oneida and State of New York, and known and distinguished upon a map and plot of the "Allotment of the Chenango Canal Land" within the City of Utica made by C. W. Adams, surveyor, posted and filed in the Office of the City Surveyor of the City of Utica, on or about the 27th day of December 1888 and a duplicate of which has been and was filed in the Clerk's Office of Oneida County on or about the 27th day of March, 1889 as Lot Nos. 118, 119 and 120, bounded and described as follows, on the north by Lot No. 117, on the east by the Blue Line of the Chenango Canal lands, on the south by the north line of a proposed street, and on the west by the east line the proposed street and fronting on the said proposed street and are each about 40 feet wide in front and rear except that the rear line of Lot 120 is irregular in shape and as the same are laid down on said map. Subject to the provisions of Section 12 of Chapter 456 of the Laws of 1887 aforesaid.

EXCEPTING AND RESERVING, from the above premises the following: ALL THAT TRACT OR PARCEL OF

LAND, situate in the City of Utica, County of Oneida and State of New York, more particularly described as being the northerly 4 feet from front to rear of Lot 118 as shown and distinguished upon a map and plot of the "Allotment of the Chenango Canal Land" within the City of Utica, made by C. W. Adams, surveyor posted and filed in the Office of the City Surveyor of the City of Utica, on or about the 29th day of December, 1888 and a duplicate of which has been and was filed in the Clerk's Office of Oneida County on or about the 27th day of March, 1889.

ALSO, ALL THAT PIECE OR PARCEL OF LAND, situate in Utica, County of Oneida and State of New York, known and distinguished as all that part of Lot No. 18 on a Map of property in Utica, N.Y. made for William B. Lane and Frederick G. Finck as executors of George H. Wiley deceased made by C. S. Taylor October 14, 2004 and filed in the Oneida County Clerk's Office October 18, 1904 to which reference is hereby made, bounded and described as follows: BEGINNING at the northerly corner of Lincoln Ave., with the northerly line of Wheeler Ave. thence northerly on the line of Wheeler Ave. 3 feet thence at right angles easterly 24-11/12 feet thence at right angles southerly 5-11/12 feet thence at right angles northeasterly 89/4/12 feet thence at right angles southerly 56 feet more or less to the northerly line of Lincoln Ave. and thence westerly along the northerly line of Lincoln Ave. 120 feet more or less to the junction of Wheeler Ave. the place of beginning.

ALL THAT TRACT OR PORTION OF abandoned Chenango Canal land, situated in the City of Utica, County of Oneida and State of New York, and known and distinguished upon a map and plot of the Allotment of the Chenango Canal land within the City of Utica, made by C. W. Adams, surveyor, posted and filed in the Office of the City Surveyor of the City of Utica on or about the 27th day of December, 1888, and a duplicate of which has been and was filed in the Clerk's Office of Oneida County on or about the 27th day of March, 1889, as Lot Nos. 122 and 123 bounded and described as follows, they lie together and front upon the westerly line of Chenango Ave. and are about 40 feet each front and rear and are bounded on the east by the west line of Chenango Ave., on the south by Lot No. 124, on the west by the blue line of Chenango Canal lands and on the north by the south line of a proposed Street as laid down on said map, subject to the provisions of Section 12 of said Chapter 456 of the laws of 1887.

#### PARCEL V:

ALL THAT CERTAIN TRACT OR PARCEL OF LAND, situate in the City of Utica, County of Oneida and State of New York, being Lots 124, 125 and 126 as shown on a map of the allotment of the lands of the old Chenango Canal, made by C. W. Adams, surveyor, and filed in the Oneida County Clerk's office about March 27, 1889, being further described as follows:

BEGINNING at a point in the westerly street line of Lincoln Avenue, formerly known as Chenango Avenue, at a distance of 87.50 feet westerly of an iron pipe set in the ground, marking an angle in said street line, said place of beginning being marked by an iron axle driven in the ground in the northerly line of said lot 124 of said map, running thence southerly along said street line one hundred and twenty (120) feet to an iron pipe set in the ground, thence northerly and at right angles to said street line, 109.47 feet to a point on the top of a concrete culvert there located, passing through an iron pipe set in the ground marking the line, at a distance of 106.33 feet from said street line thence easterly and forming an interior angle of 90 degrees and 58 minutes, 120 feet along said concrete culvert to the easterly line of the property herein described, thence southerly and at right angles to said Lincoln Avenue street line and passing through an iron pipe set in the ground at the easterly edge of said culvert, marking this last course, a total distance of 110.15 feet to the place of beginning, being as shown on a map of a survey made by Joseph Kemper, civil engineer, dated at Utica, N.Y. February 1, 1937.

#### PARCEL VI:

ALL THAT PART OR PORTION OF "Abandoned Chenango Canal" and situate in the City of Utica, County of Oneida and State of New York and known and distinguished upon a map and plot of the "Allotment of the Chenango Canal land" within the City of Utica made by C. W. Adams Surveyor, posted and filed in the office of the City Surveyor of the City of Utica on or about the 27th day of December 1888, and a duplicate of which was filed in the Clerk's Office of Oneida County on or about the 27th day of March, 1889 as Lot No. 127 bounded and described as follows, on the north by Lot No. 126 on the east by the west line of Lincoln Avenue on the south by Lot No. 128 and on the west by the blue line of the Chenango Canal lands and being about 40 feet front and rear as the same is laid down on said map.

#### PARCEL VII:

ALL THAT PART OR PORTION OF "Abandoned Chenango Canal land" situated in the City of Utica, County of Oneida and State of New York and known and distinguished upon a map and plot of the allotment of the "Chenango

Canal land" within the City of Utica made by C. W. Adams, surveyor, posted and filed in the office of the City Surveyor of the City of Utica on or about the 27th day of December, 1888 and a duplicate of which has been and was filed in the Clerk's Office of Oneida County on or about the 27th day of March 1889 as Lot No. 116 bounded and described as follows, on the north by Lot No. 115, on the east by the blue line of Chenango Canal lands, on the south by Lot No. 117 and on the west by the east line of the proposed St. and fronting upon the easterly side of said proposed St. and as the same is laid down on said map being about 40 feet front and rear, subject to the provisions of Section 12 of said Chapter 456 of the laws of 1887.

ALSO, ALL THAT PART OR PORTION OF "Abandoned Chenango Canal land", situate in the City of Utica, County of Oneida and State of New York, and known and distinguished upon a map and plot of the "Allotment of the Chenango Canal land," within the City of Utica, made by C. W. Adams, surveyor, posted and filed in the office of the City Surveyor of the City of Utica, on or about the 27th day of December, 1888, and a duplicate of which has been and was filed in the Clerk's Office of Oneida County on or about the 27th day of March, 1889, as Lot No. 117 described as follows: on the north by Lot 116, on the east by the blue line of the Chenango Canal lands, on the south by Lot 118 and on the west by the east line of the proposed St. and as laid down on said map.

ALSO, ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Utica, County of Oneida and State of New York, known and distinguished as Lot No. 16 and the northerly 5 ft. wide in front and rear taken from Lot No. 17 its entire length, as laid out on map of property in Utica, New York made for William B. Lane and Frederick G. Fincke, executors of George H. Wiley, deceased, from actual survey October 14, 1904 by C.S. Taylor, C.E. and filed October 18, 1904 in Oneida County Clerk's Office.

ALSO, ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Utica, County of Oneida and State of New York, known and distinguished as Lot Nos. 14 and 15 on a map of property in Utica, N.Y. made for William B. Lane and Frederick G. Fincke, Executors of George H. Wiley, deceased, from actual survey, October 14, 1904 by C. E. Taylor, C.E., and filed in the Oneida County Clerk's Office October 18, 1904.

ALSO, ALL THAT PART OR PORTION OF "Abandoned Chenango Canal Land", situated in the City of Utica, County of Oneida and State of New York, and known and distinguished upon a map and plot of the "Allotment of the Chenango Canal Land", within the City of Utica, made by C. W. Adams, surveyor, posted and filed in the office of City Surveyor of the City of Utica, on or about the 27th day of December 1888, and a duplicate of which has been and was filed in the Clerk's Office of Oneida County, on or about the 27th day March, 1889; as Lots Nos. 114 and 115 bounded and described as follows: on the north by Lot No. 113; the east by the blue line of the Chenango Canal lands; on the south by Lot No. 116, and on the west by the east line of the proposed street, and fronting upon said proposed street as the same is laid down on said map, being about 40 feet each front and rear, subject to the provisions of Section 12 of said Chapter 456 of the laws of 1887.

#### PARCEL VIII:

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Utica, County of Oneida and State of New York, bounded and described as follows: BEGINNING at a point formed by the intersection of the northerly line of Lincoln Avenue and the westerly line of Wheeler Avenue, said point of beginning being also the southeasterly corner of property shown on the City Tax Maps as Book 4, Map 13, Block 6, Lot 23; thence northerly along the westerly line of Wheeler Avenue, a distance of 90.37 +/- feet to a point, said point being located distant 8.50 feet southerly measured at right angles from the center line of an existing railroad siding or branch track operated by the Delaware Lackawanna and Western R.R. Co., Utica Division; thence easterly at an interior angle of 74° 38' 16" with the last described line a distance of 49.15 +/- feet to a point; thence southerly along a line parallel with the first described line a distance of 4.0 +/- feet to a point in the existing southerly line of Wheeler Avenue; thence westerly along the southerly line of said street a distance of 8.0 +/- feet to a point in the existing easterly line of said street; thence southerly along the existing easterly line of said street a distance of 92.92 +/- feet to a point in the northerly line of Lincoln Avenue; thence westerly along the northerly line of Lincoln Avenue a distance of 43.98 +/- feet to the place of beginning.

#### Environmental Easement Area Description

ALL that piece or parcel of property hereinafter designated as Environmental Easement Area, being Tax Lots 318.62-2-10, 1/10.2, 318.62-2-11, 1/11.2, 318.62-2-12.1, 318.62-2-12.2, 318.62-2-13, and 318.62-2-14 in the City of Utica, County of Oneida, State of New York and more particularly described as follows:

BEGINNING at a point on the northerly boundary of Lincoln Avenue, an existing city street, at its intersection with the division line between the property of BRE Lincoln Avenue, LLC (reputed owner) on the northeast and the property of SECO Leasing Corp. (reputed owner) on the southwest, said point also being the southwest corner of Lot 127 as



shown on a map entitled "Allotment of the Chenango Canal Land" within the City of Utica, prepared by C.W. Adams, surveyor, a copy of which was filed in the Clerk's Office of Oneida County on March 27, 1889, thence; N 29°33'40" W along the westerly line of Lot 127 a distance of 107.65 feet to a point on the southerly boundary of the City of Utica: North-South Arterial Highway, thence; Along the last mentioned highway boundary the following two (2) courses and distances: (1) N 59°01'44" E a distance of 3.94 feet to a point, thence; (2) N 59°41'37" E a distance of 236.08 feet to a point at the intersection of the southwesterly boundary of Wheeler Avenue, an existing city street, thence; Along the southwesterly and southerly boundaries of Wheeler Avenue the following four (4) courses and distances: (1) S 29°33'40" E a distance of 18.85 feet to a point, thence; (2) N 75°48'31" E a distance of 49.78 feet to a point, thence; (3) S 29°33'13" E a distance of 4.00 feet to a point, thence; (4) N 60°26'47" E a distance of 286.41 feet to a point at the intersection with the division line between the property of BRE Lincoln Avenue, LLC (reputed owner) on the southwest and the property of Mid-York Library System (reputed owner) on the northeast, thence; Along the last mentioned division line S 29°33'13" E a distance of 162.49 feet to a point on the northerly boundary of Lincoln Avenue, thence; Along the last mentioned street boundary the following three (3) courses and distances: (1) S 59°43'32" W a distance of 147.70 feet to a point, thence; (2) S 86°24'18" W a distance of 207.94 feet to a point, thence; (3) S 60°05'30" W a distance of 239.76 feet to the point of beginning, being 72,891± square feet or 1.673 acres, more or less.