

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Office of the Director
625 Broadway, 12th Floor, Albany, New York 12233-7011
P: (518) 402-9706 | F: (518) 402-9020
www.dec.ny.gov

DEC 10 2015

Mr. Matthew Montante
Gates Circle Holdings LLC
2760 Kenmore Ave., Suite 100
Buffalo, NY 14150

Re: Certificate of Completion
Site Name: 3 Gates Circle Site
Site No. C915272
City of Buffalo, Erie County

Dear Mr. Montante:

Congratulations on having satisfactorily completed the remedial program at the 3 Gates Circle Site. Enclosed please find an original, signed Certificate of Completion (COC). The New York State Department of Environmental Conservation (DEC) is pleased to inform you that the Final Engineering Report is hereby approved, allowing the COC to be issued for the above-referenced site.

Please note that you are required to perform the following tasks:

- If you are the site owner, you must record a notice of the COC in the recording office for the County (or Counties) where any portion of the site is located within 30 days of issuance of the COC; or if you are a prospective purchaser of the site, you must record a notice of the COC within 30 days of the date that you acquire the site. A copy of the recorded notice should be provided to DEC's project manager. If you are a non-owner, you must work with the owner to assure the notice of COC is recorded within the time frame specified. A standard notice form is attached to this letter;
- Provide the notice of the COC to the Document Repositories within 10 days of issuance of the COC. DEC will develop a fact sheet describing the institutional and engineering controls (IC/EC) that are required at the site and distribute it to the County Listserv within 10 days;
- Implement the DEC-approved Site Management Plan (SMP) which details the activities necessary to assure the performance, effectiveness, and protectiveness of the remedial program; and you must report the results of these activities to DEC in a Periodic Review



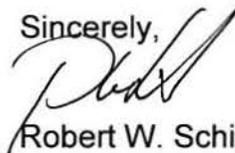
Department of
Environmental
Conservation

Report (PRR) which also includes any required IC/EC Certifications. The site IC/ECs are identified on the attached Site Management Form. The first PRR including the certification of the IC/ECs is due to DEC by April 30, 2017; and

- You and your lessees must submit an annual report to the New York State Department of Taxation and Finance within one year and for each of the following eleven years after the execution of the Brownfield Site Cleanup Agreement. The Report must provide the information required by Chapter 390 of the Laws of 2008, Tax Law Section 171-s.

If you have any questions regarding any of these items, please contact the Project Manager for this site, Jaspal S. Walia, at (716) 851-7220.

Sincerely,



Robert W. Schick, P.E.

Director

Division of Environmental Remediation

Enclosures

ec: Craig Slater, Esq., The Slater Law Firm, PLLC
Christopher Boron, Benchmark Environmental Engineering & Science PLLC
Krista Anders, DOH
Renata Ockerby, DOH
Michael Cruden, DEC
Jaspal S. Walia, DEC
Chad Staniszewski, DEC
Jennifer Dougherty, DEC

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)
CERTIFICATE OF COMPLETION

CERTIFICATE HOLDER(S):

Name	Address
Gates Circle Holdings LLC	2760 Kenmore Avenue, Buffalo, NY 14150

BROWNFIELD CLEANUP AGREEMENT:

Application Approval: 2/25/13 **Agreement Execution:** 3/19/13 **Agreement Index No.:**C915272-02-13

Application Approval Amendment: 2/20/15 **Agreement Execution Amendment:** 2/20/15

SITE INFORMATION:

Site No.: C915272 **Site Name:** 3 Gates Circle Site
Site Owner: Gates Circle Holdings LLC
Street Address: 3 Gates Circle
Municipality: Buffalo **County:** Erie **DEC Region:** 9
Site Size: 6.880 Acres
Tax Map Identification Number(s): 89.79-4-1
Percentage of site located in an EnZone: 0 - 49 %

A description of the property subject to this Certificate is attached as Exhibit A and a site survey is attached as Exhibit B.

CERTIFICATE ISSUANCE

This Certificate of Completion, hereinafter referred to as the "Certificate," is issued pursuant to Article 27, Title 14 of the New York State Environmental Conservation Law ("ECL").

This Certificate has been 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 applicable remediation requirements set forth in the ECL have been or will be achieved in accordance with the time frames, if any, established in the remedial work plan.

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):

Allowable Uses under the BCP: Restricted-Residential, Commercial, and Industrial
Cleanup Track: Track 4: Restricted use with site-specific soil cleanup objectives

Tax Credit Provisions for Entities Taxable Under Article 9, 9-A, 32, and 33:
Site Preparation and On-Site Groundwater Remediation Credit Component Rate is 28 %.
Tangible Property Credit Component Rate is 12 %.

Tax Credit Provisions for Entities Taxable Under Article 22 & S Corporations:
Site Preparation and On-Site Groundwater Remediation Credit Component Rate is 28 %.
Tangible Property Credit Component Rate is 10 %.

The Remedial Program includes use restrictions or reliance on the long term employment of institutional or engineering controls which are contained in the approved Site Management Plan and an Environmental Easement granted pursuant to ECL Article 71, Title 36 which has been duly recorded in the Recording Office for Erie County as File: 2015203851 and Receipt: 15161753 and BK/PG D 11286/2363.

LIABILITY LIMITATION

Upon issuance of this Certificate of Completion, and subject to the terms and conditions set forth herein, 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.

CERTIFICATE TRANSFERABILITY

This Certificate may 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 6NYCRR Part 375-1.9.

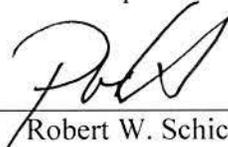
CERTIFICATE MODIFICATION/REVOCATION

This Certificate of Completion may be modified or revoked by the Commissioner following notice and an opportunity for a hearing in accordance with ECL Section 27-1419 and 6NYCRR Part 375-1.9(e) upon a finding that:

- (1) either the Applicant or the Applicant's successors or assigns have failed to comply with the terms and conditions of the Brownfield Site Cleanup Agreement;
- (2) the Applicant made a misrepresentation of a material fact tending to demonstrate that it was qualified as a Volunteer;
- (3) either the Applicant or the Applicant's successors or assigns made a misrepresentation of a material fact tending to demonstrate that the cleanup levels identified in the Brownfield Site Cleanup Agreement were reached;
- (4) there is good cause for such modification or revocation;
- (5) either the Applicant or the Applicant's successors or assigns failed to manage the controls or monitoring in full compliance with the terms of the remedial program;
- (6) the terms and conditions of the environmental easement have been intentionally violated or found to be not protective or enforceable.

The Certificate holder(s) (including its successors or assigns) shall have thirty (30) days within which to cure any deficiency or to seek a hearing. If the deficiency is not cured or a request for a hearing received within such 30-day period, the Certificate shall be deemed modified or vacated on the 31st day after the Department's notice.

Basil Seggos
Acting Commissioner
New York State Department of Environmental Conservation

By:  Date: December 16, 2015
Robert W. Schick, P.E., Director
Division of Environmental Remediation

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

3 Gates Circle Site, Site No. C915272
3 Gates Circle, Buffalo, NY, 14209
Buffalo, Erie County, Tax Map Identification Number(s): 89.79-4-1

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 Gates Circle Holdings LLC for a parcel approximately 6.88 acres located at 3 Gates Circle in the City of Buffalo, Erie 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):

- 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.

Further, the use of groundwater is restricted and may not be used, unless treated in accordance with the requirements provided by the New York State Department of Health, or a local County Health Department with jurisdiction in such matters and such is approved by the Department as not inconsistent with the remedy.

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 Erie County as File: 2015203851 and Receipt: 15161753 and BK/PG D 11286/2363.

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.

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.

3 Gates Circle Site, C915272, Buffalo, NY

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 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 DEC's Region 9 Office located at 270 Michigan Avenue, Buffalo, NY 14203, by contacting the Regional Environmental Remediation Engineer.

WHEREFORE, the undersigned has signed this Notice of Certificate

Gates Circle Holdings LLC

By: _____

Title: _____

Date: _____

STATE OF NEW YORK) SS:
COUNTY OF)

On the _____ day of _____, in the year 20___, before me, the undersigned, personally appeared _____, 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.

Signature and Office of individual
taking acknowledgment

Please record and return to:
Matthew Montante
Gates Circle Holdings LLC
2760 Kenmore Ave., Suite 100
Buffalo, NY 14150



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Form
 11/24/2015



SITE DESCRIPTION

SITE NO. C915272

SITE NAME 3 Gates Circle Site

SITE ADDRESS: 3 Gates Circle **ZIP CODE:** 14209

CITY/TOWN: Buffalo

COUNTY: Erie

ALLOWABLE USE: Restricted-Residential, Commercial, and Industrial

SITE MANAGEMENT DESCRIPTION

SITE MANAGEMENT PLAN INCLUDES:

- IC/EC Certification Plan
- Monitoring Plan
- Operation and Maintenance (O&M) Plan

Periodic Review Frequency: once a year

Periodic Review Report Submitted Date: 04/30/2017

Description of Institutional Control

Gates Circle Holdings LLC

2760 Kenmore Avenue, Suite 100

3 Gates Circle

Environmental Easement

Block: 4

Lot: 1

Sublot:

Section: 79

Subsection:

S_B_L Image: 89.79-4-1

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

O&M Plan

Site Management Plan

Soil Management Plan

Description of Engineering Control

Gates Circle Holdings LLC

2760 Kenmore Avenue, Suite 100

3 Gates Circle

Environmental Easement

Block: 4

Lot: 1

Sublot:

Section: 79

Subsection:

S_B_L Image: 89.79-4-1

Cover System

Exhibit A
Site Description

SCHEDULE "A" PROPERTY DESCRIPTION

Environmental Easement Description

For 3 Gates Circle Site

BCP Site No. C915272

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Buffalo, County of Erie and State of New York being part of Lot 62, Township 11, Range 8 of the Holland Land Company Survey (so-called) and according to a map recorded in the Erie County Clerk's Office in Liber 266 of Deeds at Page 463 and is known as Subdivision Lot Nos. 19, 20, 21, 22, 23, 24, part of Subdivision Lot Nos. 25, 26, 27, 28, 29, 30 and more, bounded and described as follows:

BEGINNING at the intersection of the southerly line of Lafayette Avenue (66.0 feet wide) with the westerly line of Linwood Avenue (99.0 feet wide);

RUNNING THENCE: Southerly, along the westerly line of Linwood Avenue, a distance of 615.70 feet to the southeast corner of lands conveyed to Millard Fillmore Hospital by deed recorded in the Erie County Clerk's Office in Liber 7081 of deeds at Page 215;

RUNNING THENCE: Westerly, at an interior angle of $102^{\circ} 28' 04''$ with the last described line and along the south line of said Millard Fillmore Hospital lands, a distance of 162.50 feet to the southeast corner of lands conveyed to Jeanie W. Norton by deed recorded in the Erie County Clerk's Office in Liber 1429 of Deeds at Page 36;

RUNNING THENCE: Northerly, parallel with the northwest line of Linwood Avenue and along the east line of said Norton lands, a distance of 33.95 feet to a point on the south line of Subdivision Lot No. 19.

RUNNING THENCE: Westerly, along the south line of Subdivision Lot No. 19, a distance of 131.82 feet to the southwest corner thereof; said point being also on the middle line of the block between Linwood and Delaware Avenues;

RUNNING THENCE: Southerly, along the middle line of the block between Linwood and Delaware Avenues, a distance of 1.59 feet to a point on the south line of lands conveyed to Frederick Sander by deed recorded in the Erie County Clerk's Office in Liber 114 of Deeds at Page 562;

RUNNING THENCE: Westerly, along the south line of said Sander lands, a distance of 278.51 feet to a point on the easterly line of Delaware Avenue as now laid out;

RUNNING THENCE: Northerly, at an interior angle of $79^{\circ} 10' 37''$ with the last described line and along the easterly line of Delaware Avenue, a distance of 305.58 feet to a point on the southeasterly line of Gates Circle;

RUNNING THENCE: Northeasterly, at an interior angle of $141^{\circ} 25' 54''$ with the last described line and along the southeasterly line of Gates Circle, a distance of 392.11 feet to a point on the southerly line of Lafayette Avenue;

RUNNING THENCE: Easterly, at an interior angle of $141^{\circ} 16' 20''$ with the last described line and along the southerly line of Lafayette Avenue, a distance of 347.65 feet to the POINT OR PLACE OF BEGINNING, containing 6.88 acres, be the same, more or less.

SUBJECT to easements, rights-of-way and restrictions of record.

Exhibit B
Site Survey



STATE OF NEW YORK
 COUNTY OF ERIE
 CITY OF BUFFALO
 NYS DEC BDP SITE NO. C015272, SITE ADDRESS: 3 GATES CIRCLE
 MANTOSH & MANTOSH, P.C.
 CONSULTING ENGINEERS, LAND SURVEYORS, PLANNERS
 PHONE: 432-3423
 FAX: 432-3424

DATE: 11/20/13
 SHEET: 1 OF 1
 SCALE: 1" = 50'
 DATE: DECEMBER 20, 2013
 PROJECT: DELAWARE AVENUE MEDICAL CENTER BUILDING, INC. PARCELS, W/ADJACENT PLOTS
 CITY OF BUFFALO

NOTES:

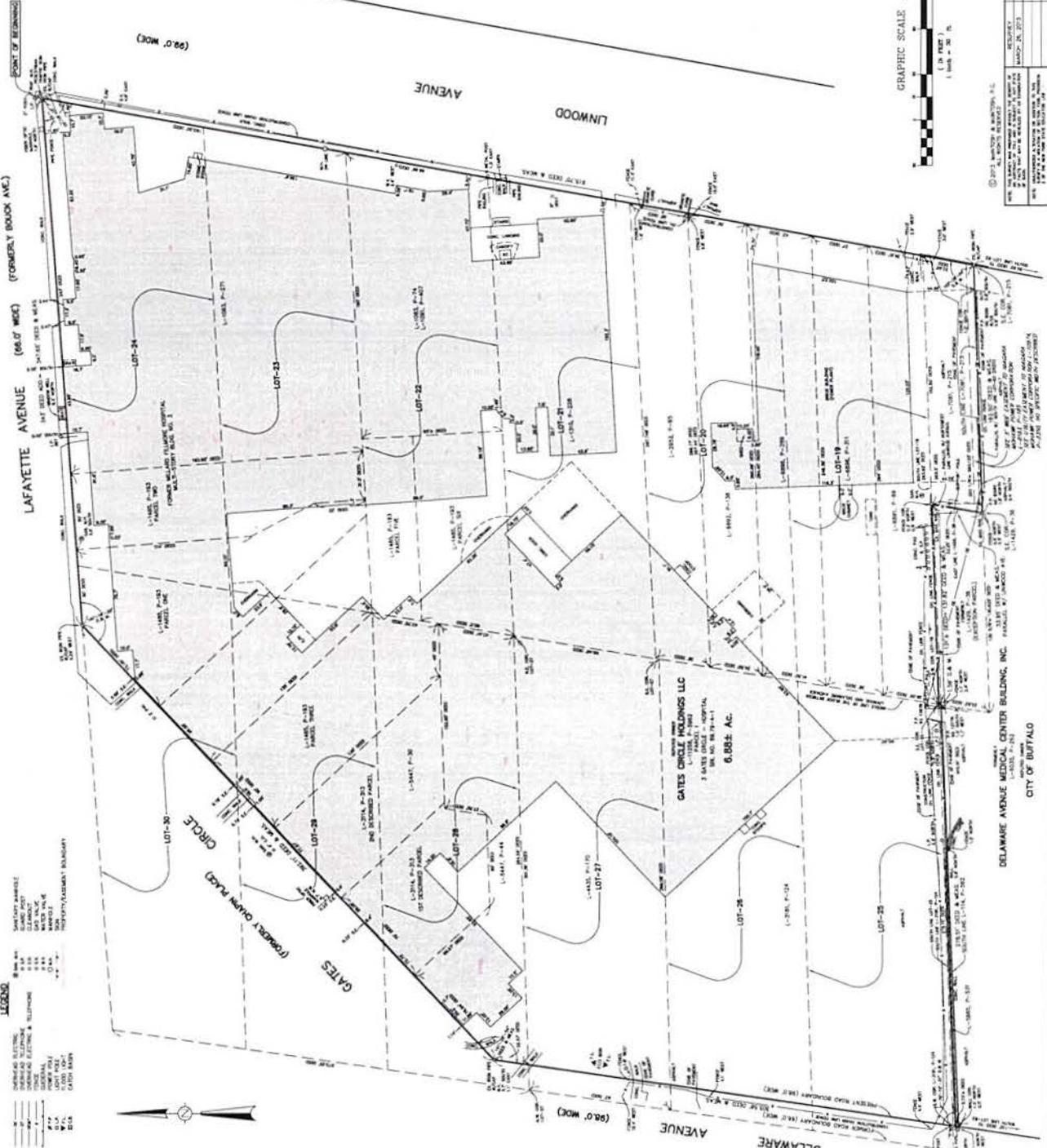
- THIS SURVEY HAS BEEN PERFORMED IN ACCORDANCE WITH THE SURVEYING AND MAPPING ACT OF 2008, AS AMENDED, AND IS SUBJECT TO THE JURISDICTION OF THE STATE SURVEYOR. THE SURVEYOR'S OFFICE HAS REVIEWED THIS SURVEY AND HAS DETERMINED THAT IT COMPLIES WITH THE REQUIREMENTS OF THE SURVEYING AND MAPPING ACT OF 2008, AS AMENDED.
- NO ACCESS TO INTERIOR RECORDS OF RECORDS (I.R.) OF THE SUBJECT PROPERTY HAS BEEN OBTAINED.
- ADJACENT RECORDS HAVE BEEN REFERENCED AS NOTED ON THIS PLAN.

GATES CIRCLE HOLDINGS LLC ENVIRONMENTAL CASUALTY AREA DESCRIPTION
 NYS DEC BDP SITE NO. C015272

ALL THAT TRACT OF PARCELS, OF LAND, situate in the City of Buffalo, County of Erie, State of New York, known as the "GATES CIRCLE HOLDINGS LLC ENVIRONMENTAL CASUALTY AREA" and described as follows: PARCELS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 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981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

THE ENGINEERING AND INSTITUTIONAL CONTROLS FOR THIS EASEMENT ARE SET FORTH IN THE INSTRUMENT OF EASEMENT AND ARE SUBJECT TO THE JURISDICTION OF THE STATE SURVEYOR. THE SURVEYOR'S OFFICE HAS REVIEWED THIS INSTRUMENT AND HAS DETERMINED THAT IT COMPLIES WITH THE REQUIREMENTS OF THE SURVEYING AND MAPPING ACT OF 2008, AS AMENDED.

THIS PROPERTY IS SUBJECT TO AN ENVIRONMENTAL CASUALTY AREA SET FORTH IN THE INSTRUMENT OF EASEMENT AND IS SUBJECT TO THE JURISDICTION OF THE STATE SURVEYOR. THE SURVEYOR'S OFFICE HAS REVIEWED THIS INSTRUMENT AND HAS DETERMINED THAT IT COMPLIES WITH THE REQUIREMENTS OF THE SURVEYING AND MAPPING ACT OF 2008, AS AMENDED.



© 2013, MANTOSH & MANTOSH, P.C.
 ALL RIGHTS RESERVED. NO PART OF THIS SURVEY MAY BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT PERMISSION IN WRITING FROM MANTOSH & MANTOSH, P.C.

DELaware AVENUE MEDICAL CENTER BUILDING, INC. PARCELS, W/ADJACENT PLOTS
 CITY OF BUFFALO