

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

Mr. Rocco Termini
R & M Leasing LLC
391 Washington Street, Suite 800
Buffalo, NY 14203

DEC **27** 2017

Re: Certificate of Completion
Pierce Arrow Business Center
155-157 Chandler Street
Buffalo, Erie County
Site No.: C915312

Dear Mr. Termini:

Congratulations on having satisfactorily completed the remedial program at the Pierce Arrow Business Center Site. Enclosed please find an original, signed Certificate of Completion (COC). The New York State Department of Environmental Conservation (Department) 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 the Department'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.

Please return the proof of recording to:

Chief, Site Control Section
New York State Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway
Albany, NY 12233-7020



Department of
Environmental
Conservation

- Provide the notice of the COC to the Document Repositories within 10 days of issuance of the COC. The Department will develop a fact sheet announcing the issuance of the COC and describing the institutional and engineering controls (IC/ECs), if any, that are required at the site and distribute it to the County Listserv within 10 days;
- Implement the Department-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 the Department in a Periodic Review 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 the Department in April 2019.

If you have any questions regarding any of these items, please contact Jaspal S. Walia at 716-851-7220.

Sincerely,



Michael J. Ryan, P.E.
Assistant Director
Division of Environmental Remediation

cc w/ enclosure:

J. Walia

J. Dougherty

R. Termini – R & M Leasing LLC, rtermini@wnylofts.com

M. Wittman - Hazard Evaluations, Inc., mwittman@hazardevaluations.com

J. Schenne - Schenne & Associates, john@schenne.com

M. Romanowski - Hopkins, Sorgi & Romanowski PLLC,
mromanowski@hsr-legal.com

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)
CERTIFICATE OF COMPLETION

Name

R & M Leasing LLC

Address

391 Washington Street, Buffalo, NY 14203

BROWNFIELD CLEANUP AGREEMENT:

Application Approval: 3/3/17 **Agreement Execution:** 4/24/17 **Agreement Index No.:** C915312-02-17

Application Approval Amendment: 9/21/17

Agreement Execution Amendment: 9/21/17

SITE INFORMATION:

Site No.: C915312 **Site Name:** Pierce Arrow Business Center

Site Owner: Ontario Equipment Co. Inc.

Street Address: 155-157 Chandler Street

Municipality: Buffalo **County:** Erie **DEC Region:** 9

Site Size: 2.350 Acres

Tax Map Identification Number(s): 77.84-1-4, 77.84-1-5

Percentage of site located in an EnZone: 100 %

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 2: Restricted use with generic soil cleanup objectives

Tax Credit Provisions:

Site Preparation and On-Site Groundwater Remediation Credit Component Rate is 40 %.

Tangible Property Credit Component Rate is 15%. Comprised of 10% Base, 5% EnZone.

Additional rate increases may be available if: the site is developed as affordable housing; if the Certificate Holder at a site within a certified Brownfield Opportunity Area (BOA) receives a separate Determination of Conformance from the Secretary of State, or; if the site is used primarily for manufacturing activities.

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 BK/PG D 11322/1373 and File: 2017240959.

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 is not 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
Commissioner
New York State Department of Environmental Conservation

By:  Date: 12/27/17
Michael J. Ryan, P.E., Assistant Director
Division of Environmental Remediation

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

Pierce Arrow Business Center, Site ID No. C915312
155-157 Chandler Street, Buffalo, NY 14207
Buffalo, Erie County, Tax Map Identification Number(s): 77.84-1-4 and 77.84-1-5

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 R & M Leasing LLC for a parcel approximately 2.35 acres located at the 155-157 Chandler Street 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):

- ☐ Unrestricted Use, as set forth in 6 NYCRR 375-1.8(g)(1)i
- ☐ 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.

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: 2017240959 and BK/PG D 11322/1373.

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

***Pierce Arrow Business Center, Site ID No. C915312
155-157 Chandler Street, Buffalo, NY 14207***

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, 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 revoked if the Environmental Easement as implemented, if applicable, is not protective or enforceable.

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, 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, a copy of the Certificate can be reviewed at the NYSDEC's Region 9 located at 270 Michigan Avenue, Buffalo, NY 14203, by contacting the Regional Environmental Remediation Engineer.

WHEREFORE, the undersigned has signed this Notice of Certificate

Ontario Equipment Co. Inc.

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:
R & M Leasing LLC
391 Washington Street, Suite 800
Buffalo, NY 14203

Exhibit A
Site Description

SCHEDULE "A" PROPERTY DESCRIPTION

DEED AND EASEMENT DESCRIPTION
155 CHANDLER STREET, TAX MAP # 77.84-1-4

All that tract or parcel of land, together with building and improvements erected thereon, situate in the City of Buffalo, County of Erie and State of New York, being Lots Nos. 1 to 10 inclusive and Lots Nos. 23 to 32 inclusive, in Block "I", of the subdivision of a part of Lot 88, Black Rock, Township 11, Range 8, of the Holland Land Company's Survey, as shown on Cover Map No. 196, filed in the Erie County Clerk's Office, Buffalo, New York and more particularly described as follows:

Beginning at the intersection of the southerly line of Chandler Street and the easterly line of Manton Place, said point of beginning being also the northwesterly corner of Lot No. 1 in the above referred to subdivision, running thence southerly along the easterly line of Manton Place a distance of 280 feet to the northerly line of Grote Street, which point is also the southwesterly corner of Lot No. 23 in the above referred to subdivision; thence easterly along the northerly line of Grote Street, 305.27 feet to the easterly line of Lot No. 32 in said subdivision, which point is also the southwesterly corner of lands owned now or formerly by Anthony Young and Caroline Young his wife; thence northerly along the easterly line of Lots 32 and 10, being also along the westerly line of land now or formerly of Anthony Young and wife and lands of Barcola Manufacturing Company a distance of 280.00 feet to the southerly line of Chandler Street, said point being also the northeasterly corner of Lot No. 10 and the northwesterly corner of lands now or formerly of Barcola Manufacturing Company; thence westerly along the southerly side of Chandler Street a distance of 306.70 feet to the easterly line of Manton Place, the point and place of beginning, containing 1.96 acres of land, being the same more or less.

DEED AND EASEMENT DESCRIPTION
157 CHANDLER STREET, TAX MAP # 77.84-1-5

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 No. 88, Township 11 and Range 8 of the Holland Land Company's Survey, and according to a map filed in the Erie County Clerk's Office under Cover No. 228 is known and distinguished as Subdivision Lots Nos. 16, 17, 18 and the westerly part of Subdivision Lot No. 19 in Block "I", bounded and described as follows:

Beginning at a point in the southerly line of Chandler Street 392.21 feet west of its intersection with the westerly line of Bridgeman Street, which point of beginning is the northwesterly corner of subdivision Lot No. 16; running thence easterly along the southerly line of Chandler Street 120.48 feet; thence southerly and parallel with the westerly line of Bridgeman Street 140 feet; thence westerly and parallel with Chandler Street and along the southerly line of Subdivision Lots Nos. 16, 17, 18 and the westerly part of Lot No. 19, 120.48 feet to the southwesterly corner of Subdivision Lot No. 16; and thence northerly and along the westerly line of Subdivision Lot No. 16, 140 feet to the southerly line of Chandler Street at the point or place of beginning, containing 0.39 acres more or less.

Exhibit B

Site Survey

THIS SURVEY WAS MADE BY THE
SURVEYOR OF THE STATE OF NEW YORK
ON THE 15TH DAY OF JULY, 2014

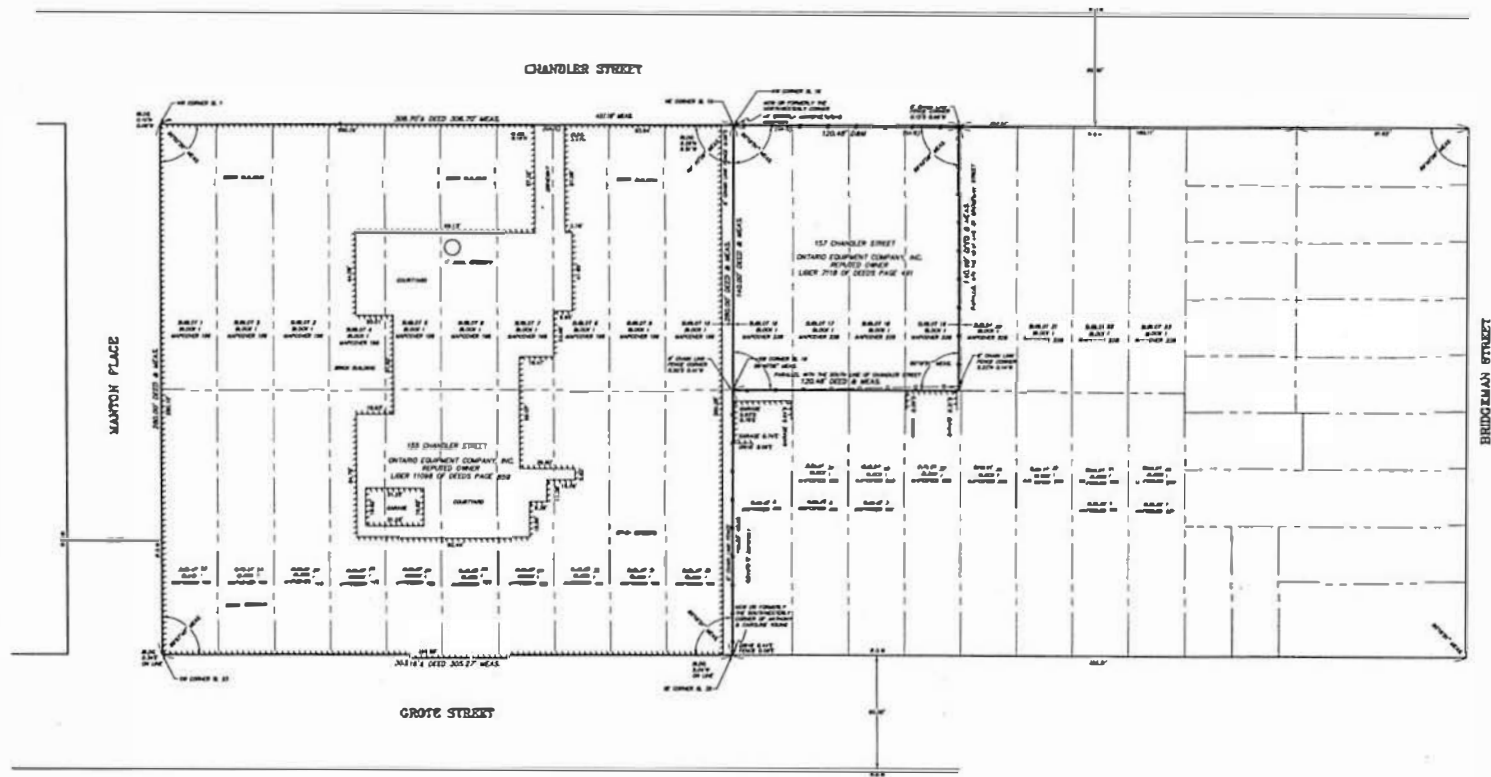
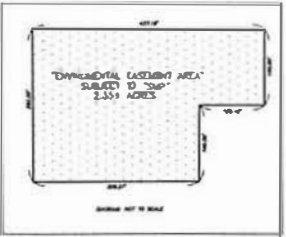
THIS SURVEY WAS MADE BY THE
SURVEYOR OF THE STATE OF NEW YORK
ON THE 15TH DAY OF JULY, 2014

LIBER 11086 OF DEEDS AT PAGE 408

WE HEREBY CERTIFY that the foregoing is a true and correct copy of the original record as the same appears in the records of the County of Erie, New York, and that the same has been compared with the original and found to be a true and correct copy.

LIBER 7116 OF DEEDS AT PAGE 481

WE HEREBY CERTIFY that the foregoing is a true and correct copy of the original record as the same appears in the records of the County of Erie, New York, and that the same has been compared with the original and found to be a true and correct copy.

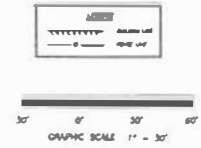


THE ENGINEERING AND INSTITUTIONAL CONTROLS FOR THE EASEMENT ARE SET FORTH IN MORE DETAIL IN THE SITE MANAGEMENT PLAN ("SMP"). A COPY OF THE SMP MUST BE OBTAINED BY ANY PARTY WITH AN INTEREST IN THE PROPERTY. THE SMP MAY BE OBTAINED FROM NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, DIVISION OF ENVIRONMENTAL REMEDIATION, SITE CONTROL SECTION, 625 BROADWAY, ALBANY, NY 12233 OR AT DERWEB@DEC.NY.GOV.

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 New York Environmental Conservation Law.

I HEREBY CERTIFY that the foregoing is a true and correct copy of the original record as the same appears in the records of the County of Erie, New York, and that the same has been compared with the original and found to be a true and correct copy.

DATE	REVISION/NOTE
8/1/17	ADDITIONAL ENVIRONMENTAL NOTES



SURVEY OF
PART OF LOT 88 (BLACK ROCK), TOWNSHIP 11 RANGE 8
HOLLAND LAND SURVEY
CITY OF BUFFALO, ERIE COUNTY, NEW YORK

DATE: 8/21/2014
TAX: 77.84-1-4



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Form
12/20/2017



SITE DESCRIPTION

SITE NO. C915312

SITE NAME Pierce Arrow Business Center

SITE ADDRESS: 155-157 Chandler Street ZIP CODE: 14207

CITY/TOWN: Buffalo

COUNTY: Erie

ALLOWABLE USE: Restricted-Residential, Commercial, and Industrial

SITE MANAGEMENT DESCRIPTION

SITE MANAGEMENT PLAN INCLUDES: YES NO

IC/EC Certification Plan



Monitoring Plan



Operation and Maintenance (O&M) Plan



Periodic Review Frequency: once a year

Periodic Review Report Submitted Date: 04/29/2019

Description of Institutional Control

Ontario Equipment Co. Inc.

155 Chandler Street

155 Chandler Street

Environmental Easement

Block: 1

Lot: 4

Sublot:

Section: 77

Subsection: 84

S_B_L Image: 77.84-1-4

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

157 Chandler Street

Environmental Easement

Block: 1

Lot: 5

Sublot:

Section: 77

Subsection: 84

S_B_L Image: 77.84-1-5

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

Description of Engineering Control

Ontario Equipment Co. Inc.

155 Chandler Street

155 Chandler Street

Environmental Easement

Block: 1

Lot: 4

Sublot:

Section: 77

Subsection: 84

S_B_L Image: 77.84-1-4

Vapor Mitigation