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

December 29, 2022

130 Main Environmental Remediation, LLC
130 Main Master Developer, LLC
Heritage Point Canalside, LLC
Attn: Nicholas Sinatra
617 Main Street, Suite 200
Buffalo, New York 14203

Re: Certificate of Completion 130 Main Street Buffalo, Erie County Site No. C915347

Dear Nicholas Sinatra:

Congratulations on having satisfactorily completed the remedial program at the 130 Main Street 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 the Notice of Certificate of Completion in the recording office for the county 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 the Notice within 30 days of the date that you acquire the site. If you are a non-owner, you must work with the owner to assure the Notice is recorded within the time frame specified. A standard Notice of Certificate of Completion form is attached to this letter.
- Provide electronic copies of the recorded Notice and proof of recording to the Department's project manager:

Taylor Monnin Assistant Engineer taylor.monnin@dec.ny.gov



• Provide the Notice of Certificate of Completion 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;

If you have any questions, please do not hesitate to contact Taylor Monnin, the Department's project manager, at 716-851-7220 or by email at taylor.monnin@dec.ny.gov.

Sincerely,

Andrew Guglielmi

Andrew Guglielmi Division Director Division of Environmental Remediation

Enclosure

ec w/ enclosure:

C. Vooris – NYSDOH, <u>christine.vooris@health.ny.gov</u> Charlotte Bethoney – NYSDOH, <u>charlotte.bethoney@health.ny.gov</u> Shaun Surani – NYSDOH, <u>shaun.surani@health.ny.gov</u> Matt Gokey, <u>matthew.gokey@tax.ny.gov</u> Paul Takac, <u>paul.takac@tax.ny.gov</u> Nicholas Sinatra – Applicant's representative, <u>nick@sinatraandcompany.com</u> Daniel Riker - C&S Companies, <u>driker@cscos.com</u> Cody Martin - C&S Companies, <u>cmartin@cscos.com</u> Marc Romanowski – Rupp Baase Pfalzgraf Cunningham, LLC, <u>Romanowski@ruppbaase.com</u>

ec w/o enc.:

Taylor Monnin – NYSDEC Andrea Caprio – NYSDEC Michael Cruden – NYSDEC Gregory Scholand – NYSDEC Kelly Lewandowski - NYSDEC

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP) CERTIFICATE OF COMPLETION

CERTIFICATE HOLDER(S):

Name

130 Main Environmental Remediation, LLC130 Main Master Developer, LLCHeritage Point Canalside, LLC

Address

617 Main Street, Suite 200, Buffalo, NY 14203617 Main Street, Suite 200, Buffalo, NY 14203617 Main Street, Suite 200, Buffalo, NY 14203

BROWNFIELD CLEANUP AGREEMENT:

Application Approval: 10/16/19Agreement Execution: 7/27/20Agreement Index No.:C915347-06-20Application Amendment Approval: 12/23/22Agreement Index Approval: 12/23/22Agreement

Agreement Amendment Execution: 12/23/22 Agreement Amendment Execution: 12/28/22

Application Amendment Approval: 12/28/22

SITE INFORMATION:

Site No.: C915347 Site Name: 130 Main Street

Site Owner: Heritage Point Canalside, LLC

Street Address: 106 Main StreetMunicipality: BuffaloCounty: ErieDEC Region: 9Site Size:0.491 AcresTax Map Identification Number(s):p/o 111.17-14-1.2Percentage 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: Unrestricted, Residential, Restricted-Residential, Commercial, and Industrial

Cleanup Track: Track 1: Unrestricted use **Tax Credit Provisions:** Site Preparation and On-Site Groundwater Remediation Credit Component Rate is 50 %.

Tangible Property Credit is 20%. Comprised of 10% Base, 5% EnZone, 5% Track 1.

Dependent upon the project being developed in a manner consistent with the approved Brownfield Cleanup Program application, additional rate increases may be available if the site is developed as affordable housing (5%), if the Certificate Holder receives a separate Determination of Conformance with the BOA from the Secretary of State (5%), or if the site is used primarily for manufacturing activities (5%) not to exceed a maximum 24%.

No Environmental Easement has been granted pursuant to ECL Article 71, Title 36 as there are no use restrictions and there is no reliance on the long-term employment of institutional controls.

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.

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: Andrew Juglielmi Date: 12/29/2022

Andrew O. Guglielmi, Director Division of Environmental Remediation

Exhibit A

✓ Metes & Bounds Description

LEGAL DESCRITION:

PARCEL A2.2/A2.3

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, being part of Outer Lot No. 85, and being a portion of lands now or formerly conveyed to the Erie Canal Harbor Development Corporation by deed recorded in the Erie County Clerks Office in Liber 11141 of Deeds at Page 780 and being more particularly bounded and described as follows:

COMMENCING at a point on the northeast line of Marine Drive (50' wide) at its intersection with the northwest line of Main Street (99' wide), said point being a southeast corner of lands conveyed to the Erie Canal Harbor Development Corporation by deed recorded in the Erie County Clerks Office in Liber 11141 of Deeds at Page 780;

Thence N 46° 02' 09" E along the said northwest line of Main Street, a distance of 6.72 feet to the POINT OF BEGINNING;

Thence N 71° 34' 15" W, a distance of 4.13 feet to a point;

Thence N 65' 22' 40" W, a distance of 81.46 feet to a point;

Thence N 43° 15' 46" W, a distance of 126.39 feet to a point;

Thence N 45' 14' 21" E, a distance of 71.78 feet to a point;

Thence S 44' 26' 06" E, a distance of 10.43 feet to a point;

Thence N 45° 25' 37" E, a distance of 30.84 feet to a point;

Thence S 51° 41' 40" E, a distance of 162.41 feet to the said northwest line of Main Street;

Thence S 13' 54' 30" W along the said northwest line of Main Street, a distance of 67.39 feet to a point;

Thence S 46' 02' 09" W and continuing along the said northwest line of Main Street, a distance of 37.38 feet to the point or place of beginning, containing 21,392 square feet or 0.491 acre of land more or less.

Exhibit B

✓ Site Survey

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NOTES:

GRASS

TG=582.92 NE INV. 580.01 W INV. 578.84

FIREBOX #2

EDNED 3' X 3' DUCT BANK

~.56 A

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MAL STREET DOCTOR

0.491+

THIS MAP IS BASED ON A FIELD SURVEY COMPLETED ON DECEMBER 27, 2018 AND UPDATED ON MAY 2, 2019.

COORDINATES ARE REFERENCED TO THE NEW YORK STATE PLANE COORDINATE SYSTEM WEST ZONE, NAD 83.

NORTH IS REFERENCED TO TRUE NORTH AT 78°35' MERIDIAN OF WEST LONGITUDE. ELEVATIONS ARE REFERENCED TO THE NAVD 88 VERTICAL DATUM.

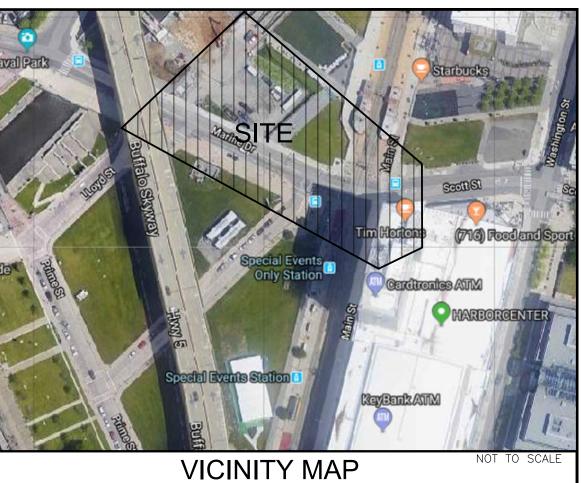
UNAUTHORIZED ALTERATION OR ADDITION TO ANY SURVEY, DRAWING, DESIGN, SPECIFICATION, PLAN OR REPORT IS A VIOLATION OF SECTION 7209, PROVISION 2 OF THE NEW YORK STATE EDUCATION LAW. ONLY COPIES FROM THE ORIGINAL OF THIS SURVEY MAP MARKED WITH AN ORIGINAL OF THE LAND SURVEYOR'S EMBOSSED SEAL AND SIGNATURE SHALL BE CONSIDERED TO BE VALID TRUE COPIES.

ALL UNDERGROUND UTILITIES ARE DEPICTED AT SUE "QUALITY LEVEL C" AND HAVE BEEN LOCATED FROM FIELD SURVEY AND RECORD INFORMATION PROVIDED. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN AT QUALITY LEVEL C ARE IN THE EXACT LOCATION INDICATED. ALTHOUGH THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM RECORD INFORMATION AVAILABLE, THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES UTILITIES.

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ABBREVIATIONS:

BC	BOTTOM CURB
СА	CABLE TV
CIP	CAST IRON PIPE
CO	CLEANOUT
CONC	CONCRETE
DB	DRIVER BOX
E/A	EXPOSED AGGREGATE
EP	EDGE OF PAVEMENT
E	EAST
GLM	GASLINE MARKER
GV	GAS VALVE
HCR	HANDICAP RAMP
HDPE	HIGH DENSITY POLYETHYLEN
INV	INVERT
MP	MEDIUM PRESSURE
N	NORTH
NPW	NON-POTABLE WATER
ОНЖ	OVERHEAD WIRE
PVC	POLY-VINYL CHLORIDE
REC	RECORD
ROW	RIGHT OF WAY
S	SOUTH
ТС	TOP OF CURB ELEVATION
TG	TOP OF GRATE ELEVATION
VTP	VITRIFIED TILE PIPE
WV	WATER VALVE
W	WEST

PARCEL 7

E)

(E)

RIM=582.23 S INV=577.73 N INV=577.48

¢#1

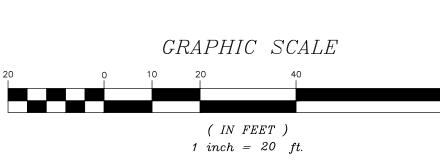
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"/ Fwm

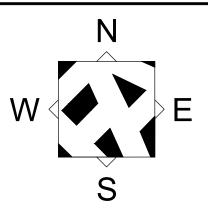
(WIDE) SCOTT STREET

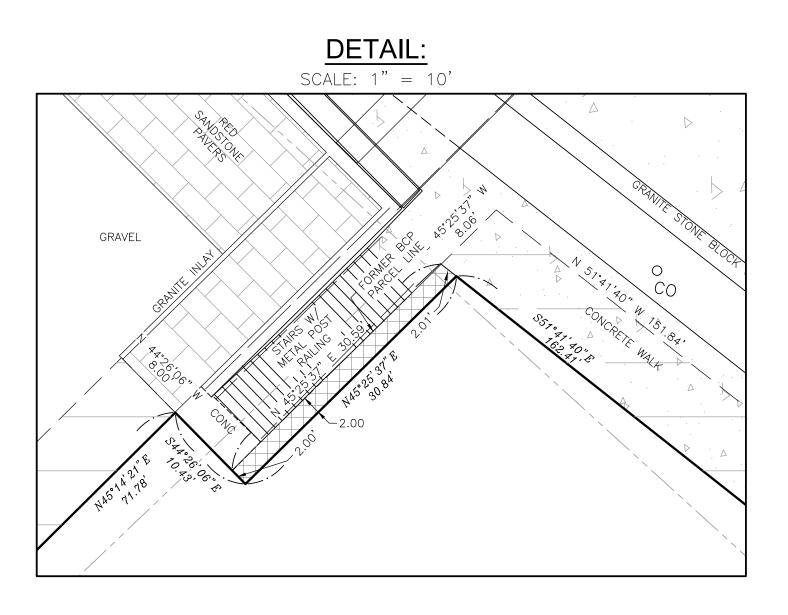
D CONC WALK

FORMER ROW









LEGAL DESCRITION:

PARCEL A2.2/A2.3

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, being part of Outer Lot No. 85, and being a portion of lands now or formerly conveyed to the Erie Canal Harbor Development Corporation by deed recorded in the Erie County Clerks Office in Liber 11141 of Deeds at Page 780 and being more particularly bounded and described as follows:

COMMENCING at a point on the northeast line of Marine Drive (50' wide) at its intersection with the northwest line of Main Street (99' wide), said point being a southeast corner of lands conveyed to the Erie Canal Harbor Development Corporation by deed recorded in the Erie County Clerks Office in Liber 11141 of Deeds at Page 780;

Thence N 46° 02' 09" E along the said northwest line of Main Street, a distance of 6.72 feet to the POINT OF BEGINNING;

Thence N 71° 34' 15" W, a distance of 4.13 feet to a point;

Thence N 65° 22' 40" W, a distance of 81.46 feet to a point;

Thence N 43° 15' 46" W, a distance of 126.39 feet to a point; Thence N 45° 14' 21" E, a distance of 71.78 feet to a point;

Thence S 44° 26' 06" E, a distance of 10.43 feet to a point;

Thence N 45° 25' 37" E, a distance of 30.84 feet to a point;

Thence S 51° 41' 40" E, a distance of 162.41 feet to the said northwest line of Main Street;

Thence S 13° 54' 30" W along the said northwest line of Main Street, a distance of 67.39 feet to a point;

Thence S 46° 02' 09" W and continuing along the said northwest line of Main Street, a distance of 37.38 feet to the point or place of beginning, containing 21,392 square feet or 0.491 acre of land more or less.

Φ ٩ \mathbf{O} Ο ഗ _ < HERITAGE POINT BROWNFIELD CLEANUP PROGRAM SITE# C915347 CITY OF BUFFALO, COUNTY OF ERIE STATE OF NEW YORK ERIE E POINT TE OF NEW Revision Date Revision Number 1" = 20' Project Manage M. POHL 12/14/2022 Drawn By: Checked By: S. SHEPHERD M. POHL 21001.40 ^{1 of 2} V-102

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

130 Main Street, Site ID No. C915347 106 Main Street, Buffalo, NY, 14202 City of Buffalo, Erie County, Tax Map Identification Number: p/o 111.17-14-1.2

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 130 Main Environmental Remediation, LLC, 130 Main Master Developer, LLC, and Heritage Point Canalside, LLC for a parcel approximately 0.491 acres located at 106 Main Street, 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 Investigation/Interim Remedial Measures 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
- \boxtimes 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, provided that the Certificate is complied with, the Certificate holders 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 holders 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 Office located at 700 Delaware Avenue, Buffalo, NY 14209, by contacting the Regional Environmental Remediation Engineer, or at <u>https://www.dec.ny.gov/data/DecDocs/C915347</u>.

130 Main Street, C915347 106 Main Street, Buffalo, NY, 14202

WHEREFORE, the undersigned has signed this Notice of Certificate of Completion.

Heritage Point Canalside, 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:

Heritage Point Canalside, LLC 130 Main Environmental Remediation, LLC 130 Main Master Developer, LLC 617 Main Street, Suite 200 Buffalo, NY 14203