

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

MAR 30 2016

Ms. Adriana Le Blan, Esq.
Assistant Corporation Counsel
Department of Law
City Hall, Room 106
24 Eagle Street
Albany, NY 12207

Re: Certificate of Completion
Site Name: Henry Johnson Boulevard Properties
Site No. E401049
SAC No. C302759
City of Albany, Albany County

Dear Ms. Le Blan:

Congratulations on having satisfactorily completed the Remediation phase of the environmental restoration project that the City of Albany undertook with State Assistance funds provided pursuant to the 1996 Clean Water/Clean Air Bond Act. The New York State Department of Environmental Conservation (DEC) has determined, based upon our inspection of the above-referenced site and upon our review of the documents you have submitted, that you completed the project in accordance with the terms and conditions of the above-referenced State Assistance Contract (SAC).

As a result, DEC is pleased to inform you that the Final Engineering Report is hereby approved, allowing the Certificate of Completion (COC) to be issued for the above-referenced site. Enclosed please find an original, signed COC. The City of Albany is hereby entitled to the benefit of the liability limitation provisions described in the New York State Environmental Conservation Law (ECL) 56-0509.

Please be advised that the significant benefits described in ECL 56-0509 are contingent upon the City of Albany fulfilling all continuing obligations set forth in ECL Article 56, Title 5, accompanying regulations, and the above-referenced SAC, including but not limited to, the obligations involving reimbursement to the State if the municipality receives payments or other consideration with respect to the project; disposition of proceeds upon the sale, transfer, or lease of the property; ensuring that Department has access to the property; and providing complete notice of any proposed change of use, as defined in ECL 56-0511.

Please note that in addition to the requirements discussed above, you are required to perform the following tasks:



Department of
Environmental
Conservation

- Record a notice of the COC in the recording office for the county where any portion of the site is located within 30 days of issuance of the COC, and provide DEC with proof of filing within 30 days of receipt. 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

- Place the notice of the COC in the document repository for the site within 10 days of issuance of the COC; and
- 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 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 in July 2017.

DEC will prepare and distribute to the Site Contact List a fact sheet announcing the issuance of the COC and describing the institutional and engineering controls, if any, that are required at the site.

The final payment under the SAC will be made after the execution of all necessary amendments, and the issuance of the COC.

If you have any questions, please do not hesitate to contact Larry Alden, DEC's project manager for this site, at 518-402-9767.

Sincerely,


Robert W. Schick, P.E., Director
Division of Environmental Remediation

Enclosures

ec: Honorable Kathy Sheehan, Mayor (mayor@albanyny.gov)
Faye Andrews – Albany County Development Agency (fandrews@albanyny.gov)
Krista Anders, DOH
Albert DeMarco, DOH
Justin Deming, DOH
Larry Alden, DEC
Michael Komoroske, DEC
Robert Cozzy, DEC
James Quinn, DEC
Dolores Tuohy, DEC
Bradford Burns, DEC

NYSDEC ENVIRONMENTAL RESTORATION PROGRAM (ERP)

CERTIFICATE OF COMPLETION

CERTIFICATE HOLDER(S):

Name

City of Albany

Address

City Hall, Room 103, Albany, NY 12207

SITE INFORMATION

Site No.: E401049 **Site Name:** Henry Johnson Boulevard Properties

State Assistance Contract No.: C302759

Site Owner: City of Albany

Street Address: Clinton Ave, Henry Johnson Blvd and 1st St.

Municipality: Albany **County:** Albany **DEC Region:** 4

Site Size: 0.344 Acres

Tax Map Identification Number(s): 65.64-5-1, 65.64-5-2, 65.64-5-23, 65.64-5-4, 65.64-5-5

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 56, Title 5 of the New York State Environmental Conservation Law ("ECL") and 6NYCRR 375.

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 State Assistance Contract, 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 approved 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 ERP: Commercial and Industrial

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 Albany County with recording identifier R2016-3696.

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 56-0509. 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 56-0509. The liability limitation shall be subject to all rights reserved to the State by ECL Section 56-0509 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 56-0509(1) and 6NYCRR Part 375.

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 6NYCRR Part 375-1.9(e) upon a finding that:

(1) either the Municipality or the Municipality's successors or assigns have failed to comply with the terms and conditions of the State Assistance Contract;

(2) either the Municipality or the Municipality's successors or assigns failed to manage the controls or monitoring in full compliance with the terms of the remedial program;

(3) either the Municipality or the Municipality's successors or assigns made a misrepresentation of a material fact tending to demonstrate that the cleanup levels identified in the approved remedial work plan were reached;

(4) the terms and conditions of the environmental easement, if applicable, have been intentionally violated;


(5) the environmental easement as implemented, if applicable, is not protective or enforceable;
or

(6) 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 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:


Robert W. Schick, P.E., Director
Division of Environmental Remediation

Date:

MARCH 30, 2016

NOTICE OF CERTIFICATE OF COMPLETION
Environmental Restoration Program
Pursuant to 6 NYCRR Part 375-1.9(d)

Henry Johnson Boulevard Properties, Site ID No. E401049
Site Address: Henry Johnson Boulevard, Albany, NY 12210
City of Albany, Albany County, Tax Map Identification Numbers 65.64-5-1, -2, -4, -5, and -23

PLEASE TAKE NOTICE, the New York State Department of Environmental Conservation (Department) has issued a Certificate of Completion (Certificate) pursuant to 6 NYCRR Part 375 to the City of Albany (Municipality) for five parcels totaling approximately 0.344 acres located at 124, 126, 130 and 132 Henry Johnson Boulevard and 339 Clinton Avenue in the City of Albany, Albany 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 State Assistance Contract, as well as any other relevant information regarding the Site, that the remediation requirements set forth in ECL Article 56, Title 5 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.

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 Albany County as R2016-3696.

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 56-0509. 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 56-0509. The liability limitation shall be subject to all rights reserved to the State by ECL Section 56-0509 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 only be transferred to the Certificate holder's successors or assigns upon transfer or sale of the Site as provided by 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 Department's Region 4 office located at 1130 North Westcott Road, Schenectady, NY 12306-2014 by contacting the Regional Environmental Remediation Engineer.

WHEREFORE, the undersigned has signed this Notice of Certificate

City of Albany

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:
Ms. Adriana Le Blan, Esq.
Assistant Corporation Counsel
Department of Law
City Hall, Room 106
24 Eagle Street
Albany, NY 12207



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Form
3/15/2016



SITE DESCRIPTION

SITE NO. E401049

SITE NAME Henry Johnson Boulevard Properties

SITE ADDRESS: Clinton Ave, Henry Johnson Blvd and 1st St. **ZIP CODE:** 12210

CITY/TOWN: Albany

COUNTY: Albany

ALLOWABLE USE: Commercial and Industrial

SITE MANAGEMENT DESCRIPTION

SITE MANAGEMENT PLAN INCLUDES:	YES	NO
IC/EC Certification Plan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Monitoring Plan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Operation and Maintenance (O&M) Plan	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Periodic Review Frequency: 1 year

Periodic Review Report Submittal Date: 07/30/2017

Description of Institutional Control

City of Albany

124 Henry Johnson Blvd.
Environmental Easement

Block: 5

Lot: 1

Sublot:

Section: 65

Subsection: .64

S_B_L Image: 65.64-5-1

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

126 Henry Johnson Blvd.

Environmental Easement

Block: 5

Lot: 2
 Sublot:
 Section: 65
 Subsection: .64
 S_B_L Image: 65.64-5-2
 Ground Water Use Restriction
 IC/EC Plan
 Landuse Restriction
 Monitoring Plan
 Site Management Plan
 Soil Management Plan

130 Henry Johnson Blvd.
 Environmental Easement
 Block: 5
 Lot: 4
 Sublot:
 Section: 65
 Subsection: .64
 S_B_L Image: 65.64-5-4
 Ground Water Use Restriction
 IC/EC Plan
 Landuse Restriction
 Monitoring Plan
 Site Management Plan
 Soil Management Plan

132 Henry Johnson Blvd
 Environmental Easement
 Block: 5
 Lot: 5
 Sublot:
 Section: 65
 Subsection: .64
 S_B_L Image: 65.64-5-5
 Ground Water Use Restriction
 IC/EC Plan
 Landuse Restriction
 Monitoring Plan
 Site Management Plan
 Soil Management Plan

339 Clinton Ave
 Environmental Easement
 Block: 5
 Lot: 23
 Sublot:
 Section: 65
 Subsection: .64
 S_B_L Image: 65.64-5-23
 Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

Site Management Plan

Soil Management Plan

Description of Engineering Control

Not Applicable/No EC's

Exhibit A
Site Description

SCHEDULE "A" PROPERTY DESCRIPTION

ENVIRONMENTAL EASEMENT DESCRIPTION – ERP Site No. E401049

LEGAL DESCRIPTION

Street No. 339 Clinton Avenue and Nos. 124–126 Henry Johnson Boulevard, City of Albany, NY

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

Beginning at a point in the southeasterly line of Henry Johnson Boulevard at its intersection with the northeasterly line of Clinton Avenue; running thence northeasterly along the southeasterly line of Henry Johnson Boulevard for a distance of 125.00' to a point; thence southeasterly along a line forming an interior angle of 89°–57'–00" with the last course, 100.00' to a point; thence southwesterly along a line forming an interior angle of 90°–03'–00" with the last course, 25.00' to a point; thence northwesterly along a line forming an interior angle of 89°–57'–00" with the last course, 75.23' to a point; thence southwesterly along a line forming an interior angle of 270°–10'–00" with the last course, 100.00' to a point in the northeasterly line of Clinton Avenue; thence northwesterly along the northeasterly line of Clinton Avenue forming an interior angle of 89°–50'–00" with the last course, 24.96' to the point or place of beginning, said last course forming an interior angle of 90°–03'–00" with the first herein described course, and containing 4,986± square feet or 0.114 Acres, more or less. Henry Johnson Boulevard referenced herein was formerly known as Northern Boulevard and also Knox Street.

Subject to all rights, easements, covenants and restrictions of record.

Subject to any state of facts an up to date Abstract of Title would disclose

Street Nos. 130–132 Henry Johnson Boulevard, City of Albany, NY

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

Beginning at a point in the southeasterly line of Henry Johnson Boulevard at its intersection with the southwesterly line of First Street; running thence southwesterly along the southeasterly line of Henry Johnson Boulevard for a distance of 100.00' to a point; thence southeasterly along a line forming an interior angle of 90°–03'–00" with the last course, 100.00' to a point; thence southwesterly along a line forming an interior angle of 89°–57'–00" with the last course, 100.00' to a point in the southwesterly line of First Street; thence northeasterly along the southwesterly line of First Street forming an interior angle of 90°–03'–00" with the last course, 100.00' to the point or place of beginning, said last course forming an interior angle of 89°–57'–00" with the first herein described course, and containing 10,000± square feet or 0.230 Acres, more or less. Henry Johnson Boulevard referenced herein was formerly known as Northern Boulevard and also Knox Street.

Subject to all rights, easements, covenants and restrictions of record.

Subject to any state of facts an up to date Abstract of Title would disclose

TOTAL ENVIRONMENTAL EASEMENT AREA = 14,986± sq. ft. = 0.344± acres

Exhibit B
Site Survey

