



# MARYLAND DEPARTMENT OF THE ENVIRONMENT

1800 Washington Boulevard • Baltimore MD 21230

**MDE**

410-537-3000 • 1-800-633-6101 • [www.mde.maryland.gov](http://www.mde.maryland.gov)

Martin O'Malley  
Governor

Robert M. Summers, Ph.D.  
Secretary

Anthony G. Brown  
Lieutenant Governor

September 26, 2014

## **CERTIFIED MAIL**

Larry Nelson, Vice President  
CBAC Borrower, LLC  
One Caesars Palace Drive  
Las Vegas, NV 89109

Re: Certificate of Completion  
Voluntary Cleanup Program  
Gateway South Phase I and Warner Street Properties  
1525 Russell Street and 1555 Warner Street  
Baltimore, Maryland 21230

Dear Mr. Nelson:

The Voluntary Cleanup Program ("VCP") of the Maryland Department of the Environment ("Department") has determined, subject to the requirements of Section 7-514 (B) of Title 7, Subtitle 5 of the Environment Article, Annotated Code of Maryland, that the requirements of the response action plan ("RAP") and all addendums, hereinafter referred to as the "RAP documents," approved September 15, 2011, September 27, 2012, May 23, 2013, August 16, 2013, October 17, 2013, November 1, 2013, February 27, 2014, June 4, 2014 and August 1, 2014, have been completed to the satisfaction of the Department at the 10.309-acre Gateway South Phase I and Warner Street Properties located at 1525 Russell Street and 1555 Warner Street, Baltimore City, Maryland. The Department has also determined that implementation and completion of the approved RAP documents has achieved the applicable cleanup criteria at the eligible property.

Therefore, in accordance with Section 7-513 (A) of the Environment Article, the Department has issued the enclosed Certificate of Completion ("COC") conditioned on use of the Gateway South Phase I and Warner Street Properties for restricted commercial (Tier 2B) or restricted industrial (Tier 3B) purposes and compliance is maintained with the land use requirements set forth in the enclosed COC. Please note that if the land use controls require submitting supplemental information to the Department, all additional project oversight will be completed by the Land Restoration Program and all necessary personnel project management time will be billed separately through semi-annual statements. Additionally, if any future remediation is necessary due to an exceedance of the cleanup criteria at the property, this new and previously unidentified contamination will be addressed under the oversight of the Land Restoration



Larry Nelson, Vice President  
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Program. In addition, the COC must be recorded in the land records of Baltimore City within 30 days following receipt. Within ten (10) days following completion of this recording requirement, please provide written verification to Art O'Connell, Chief, State Assessment and Remediation Division that the COC has been recorded as required.

If recording of the COC is not initiated within 30 days of receipt, it shall become void as provided by Section 7-514(d)(2) of the Environment Article. However, the Department may, upon request, reissue the COC because of failure to record or if the COC is lost, misplaced or otherwise unavailable for recording purposes. Please do not return the original COC document to the Department.

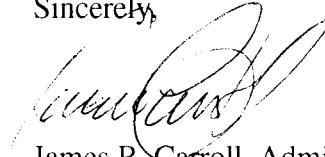
Please note that all participants in the VCP are charged a \$2,000 fee, payable to the Voluntary Cleanup Fund, upon issuance of a COC conditioned on the permissible use of the property. The Department will issue an invoice to CBAC Borrower, LLC under separate cover regarding the \$2,000 fee for issuance of the enclosed COC for the Gateway South Phase I and Warner Street Properties.

It is important to the Department that you fully understand the terms and conditions of the COC, particularly the land use controls and requirements, sampling and disposal requirements for all excavated soil, cap inspection and maintenance requirements, the prohibition on the use of ground water beneath the property, requirements for planting in landscape areas, requirements for a Health and Safety Plan (HASP) for excavation beneath capped areas, requirements for future construction of buildings on the property, a requirement for continued operation and maintenance of the sub-slab depressurization system and vapor extraction points, certain requirements to continue activities under Oil Control Program Case #2013-0627BC until all requirements are met and the case is closed, and the obligation of the participant to forward a copy of the COC to a one-call system as defined in Section 12-101 of the Public Utility Companies Article. Accordingly, you are requested to complete the enclosed Certification and return it to Art O'Connell, Chief, State Assessment and Remediation Division within ten (10) days of receipt of this letter.

Larry Nelson, Vice President  
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The Department appreciates your participation in Maryland's Voluntary Cleanup Program. If you have any questions or comments concerning the COC, please do not hesitate to contact Richelle Hanson, the project manager, at 410-537-3493.

Sincerely,



James R. Carroll, Administrator  
Land Restoration Program

Enclosures

cc: Ms. Kim Clark, Baltimore Development Corporation  
Trevor Busche, CBAC Gaming, LLC  
Ms. Denise Sullivan, Urban Green Environmental  
Mr. Arsh Mirmiran, Caves Valley Partners  
Todd Chason, Esq., Gordon Feinblatt  
Mary Beth Haller, Esq., Baltimore City Health Department  
Mr. Robert E. Young, Maryland Department of Assessments and Taxation  
Mr. Horacio Tablada  
Mr. Art O'Connell  
Ms. Barbara H. Brown  
Ms. Richelle Hanson  
Ms. Ann Goddard (w/o enclosures)

**MARYLAND DEPARTMENT OF THE ENVIRONMENT  
LAND MANAGEMENT ADMINISTRATION  
VOLUNTARY CLEANUP PROGRAM**

**CERTIFICATE OF COMPLETION**

**DATE OF ISSUE:** September 26, 2014

**Description of Property**

Name: Gateway South Phase I and Warner  
Street Properties  
Address: 1525 Russell Street and 1555  
Warner Street  
Baltimore, Maryland 21230  
Tax  
Account: Ward 21, Section 09, Block 0841,  
Lot 001 and Block 0844A, Lot 001

**Voluntary Cleanup Program Participant**

Name: CBAC Borrower, LLC  
Contact: Larry Nelson, Vice President  
Status: Inculpable Person

*This Certificate of Completion, hereinafter referred to as "Certificate," is issued pursuant to Maryland law authorizing a Voluntary Cleanup Program for properties contaminated by controlled hazardous substances or oil (Section 7-501 et seq. of the Environment Article, Annotated Code of Maryland).*

**THE MARYLAND DEPARTMENT OF THE ENVIRONMENT CERTIFIES THAT:**

The requirements of the Voluntary Cleanup Program response action plan and all addendums, hereinafter referred to as the "RAP documents," approved September 15, 2011, September 27, 2012, May 23, 2013, August 16, 2013, October 17, 2013, November 1, 2013, February 27, 2014, June 4, 2014 and August 1, 2014, by the Maryland Department of the Environment, hereinafter referred to as "the Department," for the 10.309-acre Gateway South Phase I and Warner Street Properties located at 1525 Russell Street and 1555 Warner Street, Baltimore City, Maryland 21230, hereinafter referred to as "the property," have been completed.

CBAC Borrower, LLC has demonstrated that implementation of the approved RAP has achieved the applicable cleanup criteria at the property.

The Department may not bring an enforcement action against CBAC Borrower, LLC at the property.

CBAC Borrower, LLC is released from further liability for the environmental cleanup of the contamination identified in the environmental assessments on the property submitted as part of the complete Voluntary Cleanup Program application package. Pursuant to Section 7-506 of the Environment Article, Annotated Code of Maryland, the environmental assessments on the property submitted as part of the complete Voluntary Cleanup Program application package are intended to adequately investigate all areas of contamination and potential sources of contamination at the property.

CBAC Borrower, LLC is not subject to a contribution action by a responsible person for the contamination identified in the environmental assessments on the property submitted as part of the complete Voluntary Cleanup Program application package at the property.

This Certificate does not:

1. Prevent the Department from taking any actions against any person to prevent or abate an imminent or substantial endangerment to public health or the environment at the property;
2. Remain in effect if it was obtained through fraud or material misrepresentation;
3. Affect the authority of the Department to take any action against any person concerning new contamination or exacerbation of contamination at the property;
4. Affect the authority of the Department to take any action against a responsible person concerning previously undiscovered contamination at the property;
5. Prevent the Department from taking action against any person who is responsible for any long-term monitoring and maintenance requirements in the approved RAP;
6. Prevent the Department from taking action against any person who does not comply with conditions on the permissible use of the eligible property contained in the Certificate; or
7. Prevent the Department from requiring any person to take further action if the property fails to meet the applicable cleanup criteria set forth in the RAP approved by the Department.

### LAND USES

**Tier 1 (Residential):** Planned use of the property that allows exposure and access by all populations including infant, children, elderly, and infirmed populations.

- **A (Unrestricted):** No land use controls are imposed on the property. Tier 1A properties typically include single and multi-family dwellings.
- **B (Restricted):** One or more land use controls are imposed as a condition of residential use of the property. Tier 1B properties typically include hospitals and health care facilities, education facilities, day care facilities, playgrounds and other recreational areas.

**Tier 2 (Commercial):** Planned use of the property that allows exposure and access by the general public, workers, and other expected users, including customers, patrons, or visitors. Commercial purposes allow access to the property and duration consistent with a typical business day. Tier 2 properties typically include shopping centers, retail businesses, vehicle service stations, medical offices, hotels, office space, religious institutions and restaurants.

- **A (Unrestricted):** No land use controls are imposed on the property for commercial use.
- **B (Restricted):** One or more land use controls are imposed as a condition of commercial use of the property.

**Tier 3 (Industrial):** Planned use of the property by workers over the age of 18, adult workers and construction workers, and other potential expected users. Industrial purposes allow access to the property at a frequency and duration consistent with a typical business day. Tier 3 properties typically include manufacturing facilities, maritime facilities, metal working shops, oil refineries, chemical and other material plants.

- **A (Unrestricted):** No land use controls are imposed on the property for industrial use.
- **B (Restricted):** One or more land use controls are imposed as a condition for industrial use of the property.

**Tier 4 (Public Recreational Areas):** Planned use of the property that allows exposure and access by all populations for recreational uses. The sub-categories for recreational use of a property state the exposure frequency and duration. Approved property uses are restricted based on the frequency designated below.

- **High Frequency Use:** A high frequency public recreational area is any area that is available for recreational use by all populations at the highest potential exposure frequency (youth, child, adult, senior, etc.). Examples may include, but are not limited to, playgrounds, day care facilities, schools, golf courses, and picnic areas. The frequency of visits by all populations is 250 days per year or less.
- **Medium Frequency Use:** A moderate frequency use public recreational area is any area that is available for recreational use by all populations but the frequency of use is less than a high frequency use public recreational area. Such areas may be restricted through the use of fencing, permitting requirements, or other similar restrictions that prevent or hinder unimpeded access to the recreational area. Examples include, but are not limited to, outdoor aquatic facilities, athletic facilities, dog parks, and limited access parks. The frequency of visits by all populations is 182 days per year or less.
- **Low Frequency Use:** An open space public recreational use area is defined as any area where access and use is restricted by a combination of: (a) Covenants or other legal restrictions that prohibit the use of the property where such use may impair the flora and fauna in the open space; and (b) Physical environmental barriers impede the use of the open space, including but not limited to swamps, marshes, dense vegetation, and areas with steep inclines that limit the use of open space. The frequency of visits by all populations is 52 days per year or less.

- **A (Unrestricted):** No land use controls are imposed on the property for public recreational uses of the property.
- **B (Restricted):** One or more land use controls are imposed as a condition for public recreational uses of the property.

### LAND USE CONTROLS

**Land use controls means any restriction or control that serves to protect human health and the environment by limiting use of or exposure to any portion of the property, including water resources. These controls may include:**

- **Engineering controls:** remedial actions directed toward containing or controlling the migration of contaminants through the environment. These include, but are not limited to, stormwater conveyance systems, slurry walls, liner systems, caps, leachate collection systems, pump and treat systems, and groundwater recovery systems.
- **Institutional controls:** legal or administrative tools designed to prevent or reduce human exposure to remaining contamination and to prevent activities that may result in increased exposure to or spread of such contamination.

If this Certificate is conditioned on the permissible use of the property for certain purposes, it shall become void if it is not recorded in the land records of the local jurisdiction within 30 days following receipt of the Certificate.

This Certificate is not conditioned on the use of the property for certain purposes.

This Certificate is conditioned on the use of the property as indicated below:

- Restricted Residential (Tier 1B) purposes;
- Restricted Commercial (Tier 2B) purposes;
- Restricted Industrial (Tier 3B) purposes; or
- Restricted Public Recreational Areas (Tier 4B) purposes.

### LAND USE REQUIREMENT

**The restricted commercial or restricted industrial use of the property requires the property owner to maintain compliance at all times with the following requirements:**

### **Ground Water:**

There shall be no use of the ground water beneath the property for any purpose.

### **Maintenance of Cap:**

The property owner shall maintain the integrity of the landscape cap and asphalt cap at all times to prevent any exposure to contaminated soil by any person on the property at any time. The property owner must ensure annual inspections of the landscape cap are performed and written documentation of the inspections and maintenance shall be maintained in perpetuity and be provided to the Department upon request. To evaluate adequacy of the capped areas, the "Containment Remedy Operations and Maintenance Plan", provided as Exhibit A, shall be used to evaluate the capped areas and conduct the specified maintenance activity. The inspections shall be conducted yearly and the property owner shall maintain written records documenting all maintenance of the landscape and asphalt covered areas.

Repairs shall be made to asphalt capped areas for a Pavement Condition Index (PCI) of 4 or greater and the Department shall be notified if damage to the capped area exceeds one foot in diameter and/or one foot in depth. Repairs to the landscape area shall be made to the landscape cap areas for areas of disturbance greater than one foot in diameter and/or one foot in depth.

All necessary repairs to the capped areas on the property shall be completed within five (5) business days of discovery of the needed repairs. The Department shall be notified within ten (10) business days after discovery of any needed repairs to the cap.

### **Maintenance of Building Slab**

The property owner shall maintain the integrity of the building slab at all times to prevent any exposure to contaminated soil by any person on the property at any time. The Department shall be notified within ten (10) business days after discovery of any needed repairs to the building slab. The property owner shall maintain written records documenting all maintenance of the building slab that shall be kept in perpetuity and provided to the Department upon request. All necessary repairs to the building slab on the property shall be completed within five (5) business days of discovery of the needed repairs.

### **Soil Excavation and Disposal Beneath Capped Areas:**

The property owner shall submit written notification, to the attention of the Chief, State Assessment and Remediation Division, Land Management Administration, Maryland Department of the Environment, at least 30 days prior to any planned future excavation or intrusive landscaping activities on the property that extend beneath the asphalt cap or geotextile layer of the landscape cap. When conducting any planned excavation or intrusive landscaping activities that extend beneath the asphalt cap or geotextile layer of the landscape cap, appropriate dust control



measures and air monitoring shall be performed in accordance with a site-specific health and safety plan to ensure that all worker protection requirements are met.

In the event of an unplanned emergency excavation beneath the asphalt cap or geotextile layer of the landscape cap on the property, the property owner shall verbally or electronically notify the Department within 24 hours following initiation of the emergency excavation activities. Within ten days following completion of an unplanned emergency excavation, the property owner shall file a detailed written report with the Department.

All excavated soil from beneath the asphalt cap or geotextile layer of the landscape cap at the property shall be analyzed before disposal and the analytical results shall be the basis for appropriate disposition of the material in accordance with applicable local, State, and federal laws and regulations. No excavated material from the property shall be disposed in areas with current or proposed residential use or zoning.

#### **Plantings in Landscaped Areas:**

Plantings within the landscape cap area shall be restricted to shallow rooted plants with root balls that will not extend greater than 24 inches or impair the integrity of the geotextile layer present beneath the clean fill cap.

#### **Health and Safety Plan for Excavation Beneath Capped Areas:**

When conducting any excavation activities on the property extending beneath the asphalt cap or geotextile layer of the landscape cap, a site specific Health and Safety Plan for all personnel will be developed, implemented and maintained on-site. The Health and Safety Plan must include appropriate dust control measures and air monitoring to ensure that all worker protection requirements are met. All personnel will be made aware of the Health and Safety Plan.

#### **Vapor Mitigation System and Post-Treatment Sampling**

The property owner shall operate and maintain the sub-slab depressurization system and active vapor extraction points #1, #2, and #3 to address the vapor intrusion to indoor air pathway. At a minimum, during the continued operation of the sub-slab depressurization system and active vapor extraction points, the property owner shall maintain records of the results of quarterly inspections of the system including the three blowers located on the roof and have the records available upon request by the Department.

In the event that operation of the sub-slab depressurization system is discontinued, the property owner shall maintain compliance with the post-treatment soil gas sampling protocol of Section 6.1.2 of the approved Revised RAP Amendment dated May 2013.

### **Future Construction**

The design and construction of all new buildings on the property shall include the installation of a sub-slab depressurization system, or other effective measure, that will protect occupants of the buildings from exposure to vapors from underlying soils or ground water. Prior to any occupancy of any new building constructed on the property, the property owner must conduct indoor air monitoring, verifying the effectiveness of the sub-slab depressurization system or other effective measure, and submit the monitoring results to the Department within 5 days of receipt.

### **Oil Control Program Case #2013-0627BC**

The property owner must meet any current or future activities required by the Oil Control Program under Case #2013-0627BC until all requirements are met and the case is closed.

### **ONE-CALL SYSTEM NOTIFICATION**

If this Certificate is conditioned on certain uses of the property or on the maintenance of certain land use requirements, the participant shall send a copy of this Certificate to a one-call system, as defined in Section 12-101 of the Public Utility Companies Article. The copy of this Certificate should be sent within 30 days of the effective date to the attention of MISS UTILITY, c/o General Manager, currently located at 7223 Parkway Drive, Suite 100, Hanover, Maryland 21076.

The obligation for the participant to send a copy of this Certificate does not negate the obligation of the owner, as defined in Section 12-101(f) of the Public Utility Companies Article, to become a member of the one-call system under Title 12 of the Public Utility Companies Article. Additional information may be obtained by calling 410-712-0056.

### **DEPARTMENT NOTIFICATIONS**

All notifications to the Department required herein shall be in writing and addressed to the attention of the Chief, State Assessment and Remediation Division, Land Management Administration, Maryland Department of the Environment, currently located at 1800 Washington Boulevard, Baltimore, Maryland 21230.

### **TRANSFER OF OWNERSHIP**

If ownership of the property or any portion thereof is transferred, the property owner shall notify the Department at least five (5) business days prior to the transfer. In addition, any successor in interest must submit a written certification to the attention of the Chief, State Assessment and Remediation Division, Land Management Administration, Maryland Department of the Environment that the successor in interest has a copy of this Certificate including the land use requirements for the property.

The participant and any successors in interest in a property subject to a certificate of completion shall continue to be protected from liability in the event of any violation of the conditions placed on the use of the property, provided that the participant and any successors in interest did not cause or contribute to the violation.

### **TRANSFERABILITY**

This Certificate may be transferred to any person whose actions did not cause or contribute to the contamination at the property. To validate a transfer of this Certificate, the transferee must complete a "Certificate of Completion Transfer Affidavit" available from the Department.

This Certificate does not prevent the Department from taking action against any person who uses the property for any use other than the use of the property as required by this Certificate.

If an owner of the property wants to change the use of the property to a new use and that new use is consistent with the appropriate planning and zoning authority of the appropriate city or municipality, the owner shall be responsible for the cost of cleaning up the property to the appropriate standard as determined by the Department.

**ANY OTHER USE OF THE PROPERTY OR FAILURE TO MAINTAIN COMPLIANCE WITH THE LAND USE REQUIREMENT SPECIFIED HEREIN SHALL RESULT IN THIS CERTIFICATE BEING VOIDED FOR THE CURRENT HOLDER OF THE CERTIFICATE AND FOR ANY OTHER PERSON WITH OWNERSHIP OR CONTROL OF THIS PROPERTY. THIS PROVISION SHALL NOT APPLY TO A PRIOR HOLDER OF THE CERTIFICATE WHO HAS TRANSFERRED THE CERTIFICATE AND RETAINS NO INTEREST IN THE PROPERTY.**



Horacio Tablada, Director  
Land Management Administration

9/26/14

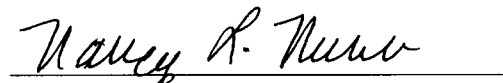
Date

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STATE OF MARYLAND, County OF Baltimore, TO WIT:

I HEREBY CERTIFY, that on this 26th day of September, 2014 before me, the undersigned Notary Public of said State, personally appeared Horacio Tablada, who acknowledged himself to be the Director, Land Management Administration, Maryland Department of the Environment, known to me to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained as the duly authorized Director of said Administration by signing his name as Director of said Administration.

WITNESS my hand and Notarial Seal.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: 11-20-2016

# Exhibit A

## Containment Remedy Operations and Maintenance Plan

GATEWAY SOUTH AND WARNER STREET PROPERTIES  
BALTIMORE, MARYLAND 21230

### H.1 CONTAINMENT REMEDY OPERATIONS AND MAINTENANCE OVERVIEW

In accordance with the Response Action Plan, post remediation care requirements include compliance with the conditions placed on the Certificate of Completion and deed restriction(s) recorded for the Site. In addition, physical maintenance requirements must be performed throughout the life of the containment surface of the capped areas to prevent degradation of the cap and exposure to the underlying soil. Inspections of the cap must be conducted annually, targeting early spring. The property owner is responsible for on-site cap maintenance inspections, performing maintenance of the cap, and for maintaining all cap inspection records. Maintenance records must include the date of the inspection, name of the inspector, any noted issues and subsequent resolution of the issues. Maintenance records will be maintained in a designated area at the Site for Maryland Department of the Environment (MDE) inspection and review.

The containment remedy (environmental cap) must be constructed as described in the Response Action Plan. The following outlines the operations and maintenance plan (O&M Plan) inspection procedures to be followed at the Gateway South and Warner Street Properties to determine when maintenance of the capped areas is required.

*In addition, in accordance with the Response Action Plan, maintenance of the cap is required in the event of any breaches which would impair the integrity of the cap. In the event of discovery of such breach, the MDE shall be verbally notified within 24 hours and maintenance shall begin within 72 hours.*

### H.2 PAVEMENT COVERED AREA INSPECTIONS

The paved areas of the Site shall include (from bottom to top) graded aggregate base and hot mix asphalt to complete the remedial cap. The total thickness must be a minimum of 8-inches. This aggregate base and asphalt must be maintained to ensure the integrity of the cap.

Pavement covered area inspections are required at a minimum of an annual basis (targeting early spring) to document that the environmental cap integrity is being maintained. During the inspection, the environmental cap surface shall be observed for the following conditions:

1. Differential settlement and significant surface-water ponding
2. Erosion or cracking of the cap materials
3. Obstruction or blocking of drainage facilities

Environmental cap inspections may be performed by the Owner, Owner's staff or consultants/representative. The inspection shall note any areas where repairs are necessary, and provide a written description, including photo documentation, of any cap defect to be repaired.

*Containment Remedy Operations and Maintenance Plan  
Gateway South and Warner Street Properties  
Baltimore, Maryland 21230*

Inspection forms and any resulting repair records are required to be maintained by the property owner.

Where the inspections recommend that cap maintenance and repair be completed, such repairs will be completed as soon as practically possible, and in compliance with any recorded deed restriction(s). If an action is required and completed, documentation of the response action is required, and shall include the name of the company completing the work, a description of the work, and the date the work was completed. An example pavement inspection form is provided to document the results of each inspection, the recommended maintenance responses, and the actual response.

**Pavement Inspection Protocol**

A pavement management system (pavement condition index) shall be implemented at the Site. The purpose of this system will be to plan and prioritize future pavement maintenance needs. The system is based on a numerical rating of pavement distresses as published by the US Army Corps of Engineers. This system is based on professional assessment and judgment. Inspections are to be performed by driving slowly over the paved areas and observing the surface conditions. A by foot field inspection should then be performed on areas judges to be in need of maintenance. The following chart is to be used to provide an index of the pavement condition.

**TABLE H.1 PAVEMENT CONDITION INDEX (PCI)**

PCI	Characterization	Description
1	New crack-free surface	Black in color, smooth texture
2	Oxidation has started	Short hairline cracks start to develop. Dark gray color.
3	Oxidation in advanced state	Hairline cracks are longer and wider. Gray in color.
4	Oxidation complete	Crack area 0.25 inch wide and crack lines have found base faults
5	Moisture penetrating through 0.25 inch cracks. Loose material, stone and sand, evident	Texture of surface becoming rough. Preventative maintenance.
6	Cracks widen and join	Cracks and shrinkage evident at curb and gutter lines.
7	Potholes develop in low spots	Gatoring areas begin to break up. Overall texture very rough.
8	Potholes developing	Pavement breaking up
9	Heaving due to excessive moisture in base	Distorts entire surface
10	General breakup of surface	

Any inspection indicating a PCI of 4 or greater for any portion of the Site shall require maintenance activities, including milling and resurfacing of the pavement. The intent is that repairs should be completed before the pavement degrades beyond a PCI of 4. **MDE shall be notified in a timely manner of any repairs that are the**

*Containment Remedy Operations and Maintenance Plan  
Gateway South and Warner Street Properties  
Baltimore, Maryland 21230*

**result of a PCI of great than a 4.0 or greater; the notification shall include documentation of the conditions being repaired and the location of the repair.**

An example pavement inspection form is attached herein to document the results of each inspection, the recommended maintenance responses, and the actual response implemented.

### **H.3 LANDSCAPED COVERED AREA INSPECTIONS**

The Site redevelopment includes limited vegetated and grassed areas, primarily along the site perimeter. These areas shall be graded and filled with approved clean fill to provide a minimum 24-inch vertical buffer zone consisting of (from bottom to top): MDE-approved geotextile, and a minimum buffer thickness of 24 inches. This landscaping must be maintained to ensure the integrity of the environmental cap.

#### ***Landscape Inspection Protocol***

Inspections are to be performed by traversing the landscaped areas and observing the surface conditions. Landscaped areas shall be inspected to evaluate the health and condition of plants, signs or mortality, animal burrows, erosion, or other features that may compromise the cap integrity. Of particular importance would be any feature such as an uprooted tree or excess erosion that would compromise the thickness of the remedial cap or would contravene the purpose of the cap.

If plants need to be replaced, they must be replaced with shallow-rooted species whose root systems will not penetrate beyond the cap thickness. Alternatively, an excavation notification may be submitted to the MDE CHS for review and approval to extend the cap thickness in the area of the plants to allow for deeper rooted species. The extended cap thickness must encompass the maximum anticipated root depth of the plant.

Environmental cap inspections may be performed by the Owner's staff or consultants. The inspection shall note any areas where repairs are necessary, and provide a written description, including photo documentation, of any cap defect to be repaired.

Inspection forms and any resulting repair records are required to be maintained by the property owner. ***MDE shall be notified in a timely manner if damage to the capped area(s) exceeds one foot in diameter and/or two feet in depth.***

Where the inspections recommend that cap maintenance and repair be completed, such repairs will be completed as soon as practically possible, and in compliance with the MDE deed restriction. If an action is required and completed, documentation of the response action is required, and shall include the name of the company completing the work, a description of the work, and the date the work was completed. An example pavement summary form is provided to document the results of each inspection, the recommended maintenance responses, and the actual response.

An example landscape inspection form is attached herein to document the results of each inspection, the recommended maintenance responses, and the actual response implemented.

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Gateway South and Warner Street Properties  
Baltimore, Maryland 21230*

**PAVEMENT INSPECTION FORM**

<b>PAVEMENT INSPECTION FORM</b>		Gateway South and Warner Street Properties Baltimore, Maryland 21230	
<b>Date:</b>		<b>Time:</b>	
<b>Weather Conditions:</b>			
<b>General Pavement Conditions:</b>			
<b>PAVEMENT CONDITION INDEX (PCI)</b>			
PCI	Characterization	Description	
1	New crack-free surface	Black in color, smooth texture	
2	Oxidation has started	Short hairline cracks start to develop. Dark gray color.	
3	Oxidation in advanced state	Hairline cracks are longer and wider. Gray in color.	
<b>RESPONSE REQUIRED</b>	4	Oxidation complete	Crack area 0.25 inch wide and crack lines have found base faults
	5	Moisture penetrating through 0.25 inch cracks. Loose material, stone and sand, evident	Texture of surface becoming rough. Preventative maintenance.
	6	Cracks widen and join	Cracks and shrinkage evident at curb and gutter lines.
	7	Potholes develop in low spots	Gatoring areas begin to break up. Overall texture very rough.
	8	Potholes developing	Pavement breaking up
	9	Heaving due to excessive moisture in base	Distorts entire surface
	10	General breakup of surface	



*Containment Remedy Operations and Maintenance Plan  
Gateway South and Warner Street Properties  
Baltimore, Maryland 21230*

<b>PAVEMENT INSPECTION FORM</b>		<b>Gateway South and Warner Street Properties Baltimore, Maryland 21230</b>
CURB CONDITION	<input type="checkbox"/> Exists <input type="checkbox"/> Sound <input type="checkbox"/> Cracked <input type="checkbox"/> Root Intrusion <input type="checkbox"/> Deteriorated Comments: _____ _____	
SIDEWALK CONDITION	<input type="checkbox"/> Exists <input type="checkbox"/> Sound <input type="checkbox"/> Cracked <input type="checkbox"/> Root Intrusion <input type="checkbox"/> Deteriorated Comments: _____ _____	
RESPONSE REQUIRED <sup>1</sup>		
WORK COMPLETED		
PHOTOGRAPHS / FIGURES ATTACHED		
RESPONSE CONTRACTOR	Work Completed By: _____ Date: _____ Signature: _____	

<sup>1</sup> Any inspection indicating a PCI of 4 or greater for any portion of the Site shall require maintenance activities, including milling and resurfacing of the pavement.

Containment Remedy Operations and Maintenance Plan  
 Gateway South and Warner Street Properties  
 Baltimore, Maryland 21230

LANDSCAPE INSPECTION FORM

<b>LANDSCAPE INSPECTION FORM</b>		Gateway South and Warner Street Properties Baltimore, Maryland 21230
<b>Date:</b>		<b>Time:</b>
<b>Weather Conditions:</b>		
<b>General Landscaping Description:</b>		
GENERAL LANDSCAPE CONDITION	<input type="checkbox"/> Exists <input type="checkbox"/> Sound <input type="checkbox"/> Erosion <input type="checkbox"/> Root Intrusion <input type="checkbox"/> Healthy Plant Condition <input type="checkbox"/> Signs of Mortality <input type="checkbox"/> Animal Burrows	
	Comments: _____ _____ _____	
GROUND COVER	<input type="checkbox"/> Dry <input type="checkbox"/> Damp <input type="checkbox"/> Wet	
	Comments: _____ _____	
TREES	<input type="checkbox"/> Exists <input type="checkbox"/> Healthy <input type="checkbox"/> Poor Health <input type="checkbox"/> Dead <input type="checkbox"/> Fallen	
	Comments: _____ _____	
SHRUBS	<input type="checkbox"/> Exists <input type="checkbox"/> Healthy <input type="checkbox"/> Poor Health <input type="checkbox"/> Dead <input type="checkbox"/> Fallen	
	Comments: _____ _____	
EROSION	<input type="checkbox"/> Exists <input type="checkbox"/> Slight <input type="checkbox"/> Moderate <input type="checkbox"/> Significant	
	Comments: _____ _____	
HOLES	<input type="checkbox"/> Exists <input type="checkbox"/> Depth of Holes: _____	
	Comments: _____ _____	

*Containment Remedy Operations and Maintenance Plan  
Gateway South and Warner Street Properties  
Baltimore, Maryland 21230*

<b>LANDSCAPE INSPECTION FORM</b>		<b>Gateway South and Warner Street Properties Baltimore, Maryland 21230</b>
RESPONSE REQUIRED		
WORK COMPLETED		
PHOTOGRAPHS / FIGURES ATTACHED		
RESPONSE CONTRACTOR	Work Completed By: _____ Date: _____ Signature: _____	

**CERTIFICATION**

**I HEREBY CERTIFY** that I have received the Certificate of Completion issued to CBAC Borrower, LLC by the Maryland Department of Environment, Voluntary Cleanup Program, on September 26, 2014 for the 10.309-acre Gateway South Phase I and Warner Street Properties located at 1525 Russell Street and 1555 Warner Street, Baltimore City, Maryland.

**I FURTHER CERTIFY** that I have read the Certificate of Completion and understand the use of the property for restricted commercial (Tier 2B) or restricted industrial (Tier 3B) purposes, sampling and disposal requirements for all excavated soil, cap inspection and maintenance requirements, the prohibition on the use of ground water beneath the property, requirements for planting in landscape areas, requirements for a Health and Safety Plan (HASP) for excavation beneath capped areas, requirements for future construction of buildings on the property, a requirement for continued operation and maintenance of the sub-slab depressurization system and vapor extraction points, certain requirements to continue activities under Oil Control Program Case #2013-0627BC until all requirements are met and the case is closed, and the obligation to forward a copy of the Certificate of Completion to a one-call system as defined in Section 12-101 of the Public Utility Companies Article.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Larry Nelson, Vice President  
CBAC Borrower, LLC  
One Caesars Palace Drive  
Las Vegas, NV 89109

**Please return within ten (10) days to:**

Art O'Connell, Chief  
State Assessment and Remediation Division, Land Management Administration  
Maryland Department of the Environment  
1800 Washington Boulevard, Suite 625  
Baltimore, Maryland 21230