

### **Environmental and Planning Consultants**

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April 13, 2015

Ms. Kelly A. Lewandowski, PE Chief, Site Control Section NYS Department of Environmental Conservation Division of Environmental Remediation 625 Broadway Albany, NY 12233-7020

Re: BCA Amendment – Site Boundary Revision

New City Plaza, 2-88 North Main Street, New City, New York

Site No. C344065

Dear Ms. Lewandowski:

This letter is being submitted as a formal application to amend the Brownfield Cleanup Program (BCP) site boundary for the New City Plaza site (Site No. C344065). The current Brownfield Cleanup Agreement (BCA) was executed by both Newton Associates LLC (the Participant) and the NYSDEC effective October 20, 2006, and identifies the boundaries of the site to include only areas around the former dry cleaning facility, the former Robbie J Cleaners, located at 30 North Main Street within the New City Plaza shopping center. Information compiled during the site investigation has documented that the plume associated with the former dry cleaning facility extends north beyond the current BCP site boundary and into the shopping plaza. A New York State Department of Conservation (NYSDEC) BCP Application to Amend BCA has been attached to this letter, and includes a rational for the boundary amendment and a site survey showing the proposed amended BCP site boundary.

If you have any questions, or require additional information, you can contact me at 914-922-2356, or contact Bryan Zieroff at 914-922-2382.

Sincerely, AKRF, Inc.

Marc S. Godick, LEP Senior Vice President

ecc: K. Thompson - NYSDEC

S. Levy – Newton P. Levy – Newton D. Freeman – Gibbons

B. Zieroff – AKRF

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION





No

# BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION TO AMEND BROWNFIELD CLEANUP AGREEMENT (BCA) AND BCA AMENDMENT

## PART I. BROWNFIELD CLEANUP AGREEMENT AMENDMENT APPLICATION

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O Add O Substitute Remove O Change in Name  an applicant(s) to the existing Brownfield Cleanup Agreement [Complete Section 1-1V below and Part II]  Does this proposed amendment involve a transfer of title to all or part of the brownfield site? Yes If yes, pursuant to 6 NYCRR Part 375-1.11(d), please also submit a Change of Use form.  See http://www.dec.ny.gov/chemical/76250.html  Amendment to modify description of the property(ies) listed in the existing Brownfield Cleanup Agreement [Complete Sections I and V below and Part II]  Amendment to Expand or Reduce property boundaries of the property(ies) listed in the existing Brownfield Cleanup Agreement [Complete Section I and V below and Part II]  Other (explain in detail below)  Please provide a brief narrative on the nature of the amendment:	☐ Amendm	ent to [check one or more boxes below]	
<ul> <li>Remove</li> <li>Change in Name</li> <li>an applicant(s) to the existing Brownfield Cleanup Agreement [Complete Section I-IV below and Part II]</li> <li>Does this proposed amendment involve a transfer of title to all or part of the brownfield site? Yes If yes, pursuant to 6 NYCRR Part 375-1.11(d), please also submit a Change of Use form.</li> <li>See http://www.dec.ny.gov/chemical/76250.html</li> <li>Amendment to modify description of the property(ies) listed in the existing Brownfield Cleanup Agreement [Complete Sections I and V below and Part II]</li> <li>Amendment to Expand or Reduce property boundaries of the property(ies) listed in the existing Brownfield Cleanup Agreement [Complete Section I and V below and Part II]</li> <li>Other (explain in detail below)</li> </ul>			
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Please provide a brief narrative on the nature of the amendment:	Other (ex	xplain in detail below)	
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## \*Please refer to the attached instructions for guidance on filling out this application\*

# 04/2014

<b>Section I. Existing Application I</b>	nformat	ion	
BCP SITE NAME:			BCP SITE NUMBER:
NAME OF CURRENT APPLICANT(S):			
INDEX NUMBER OF EXISTING AGREEMENT:			DATE OF EXISTING AGREEMENT:
Section II. New Requestor Inform	nation (	if no change	e to Current Applicant, skip to Section V)
NAME			
ADDRESS			
CITY/TOWN			ZIP CODE
PHONE	FAX		E-MAIL
name must appear, exactly as given above, in the N the DOS database must be submitted to DEC with t	er entity requ YS Departm he application	iring authorization ent of State's (DOS	Yes No from the NYS Department of State to conduct business in NYS, the requestor's S) Corporation & Business Entity Database. A print-out of entity information from at the applicant is authorized to do business in NYS.
NAME OF NEW REQUESTOR'S REPRESENTA	TIVE		
ADDRESS			
CITY/TOWN			ZIP CODE
PHONE	FAX		E-MAIL
NAME OF NEW REQUESTOR'S CONSULTANT	(if applicab	le)	
ADDRESS			
CITY/TOWN			ZIP CODE
PHONE	FAX		E-MAIL
NAME OF NEW REQUESTOR'S ATTORNEY (if	applicable)		
ADDRESS			
CITY/TOWN			ZIP CODE
PHONE	FAX		E-MAIL
THE NEW REQUESTOR MUST CERTIFY THAT CHECKING ONE OF THE BOXES BELOW:	TIT IS EITH	ER A PARTICIPA	NT OR VOLUNTEER IN ACCORDANCE WITH ECL §27-1405 (1) BY
PARTICIPANT A requestor who either 1) was the owner of the time of the disposal of contamination otherwise a person responsible for the contaunless the liability arises solely as a ownership, operation of, or involvement wit subsequent to the disposal of contamination.	or 2) is amination, result of	as a result of contamination.  NOTE: By contaminate can reasonable step release; and iii	ther than a participant, including a requestor whose liability arises solely ownership, operation of or involvement with the site subsequent to the

Section II. New Requestor Infor	rmation continued (if no change to Cu	rrent Applicant, ski	p to Sec	tion V)	
Requestor's Relationship to Property (check one):	:				
	ntial /Future Purchaser Othernave access to the property throughout the BCP project. r non-owners)	Yes No			
Requester must submit proof that the party signing this Application and Amendment has the authority to bind the Requester. This would be documentation from corporate organizational papers, which are updated, showing the authority to bind the corporation, or a Corporate Resolution showing the same, or an Operating Agreement or Resolution for an LLC.					
Describe Requestor's Relationship to Existin	ng Applicant:				
	Owner/Operator Information (only inc formation is provided, and highlight i		perator	or	
OWNER'S NAME (if different from requestor)					
ADDRESS					
CITY/TOWN	ZIP CODE				
PHONE	FAX	E-MAIL			
OPERATOR'S NAME (if different from requeste	or or owner)				
ADDRESS					
CITY/TOWN	ZIP CODE				
PHONE	FAX	E-MAIL			
Section IV. Eligibility Informat	ion for New Requestor (Please refer to	ECL § 27-1407 for	more d	etail)	
If answering "yes" to any of the following	ng questions, please provide an explanation as an	attachment.			
	g against the requestor regarding this site?		Yes	No	
	g order relating to contamination at the site?		Yes	No	
	ding claim by the Spill Fund for this site?		Yes	No	
	have violated any provision of ECL Article 27	•	Yes	No	
5. Has the requestor previously been de	enied entry to the BCP?  il proceeding to have committed a negligent or i	ntantionally tartious	Yes Yes	No No	
act involving contaminants?	in proceeding to have committed a negligent of h	mentionary tortious	168	NO	
7. Has the requestor been convicted of a theft, or offense against public admir	a criminal offense that involves a violent felony,	fraud, bribery, perjury,	Yes	No	
8. Has the requestor knowingly falsified	d or concealed material facts or knowingly subm	tted or made use of a	Yes	No	
false statement in a matter before the 9. Is the requestor an individual or entit	Department'?  Sy of the type set forth in ECL 27-1407.9(f) that of	committed an act	Yes	No	
	e to act could be the basis for denial of a BCP ap				

ADDRESS					
CITY/TOWN	ZIP CO	DDE			
TAX BLOCK AND LOT (TBL) (in existing agreen	nent )				
Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
Check appropriate boxes below:			1		
☐ Changes to metes and bounds description o	r TBL correction				
<ul> <li>Addition of property (may require a standar instructions)</li> </ul>	d application depending on t	he size and na	ture of additi	ion – see atta	ached
mod decions)					
Approximate acreage added:					
,					
Approximate acreage added:	Parcel No.	Section No.	Block No.	Lot No.	Acreage
Approximate acreage added: ADDITIONAL PARCELS:	Parcel No.	Section No.	Block No.	Lot No.	Acreage
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Approximate acreage added: ADDITIONAL PARCELS: Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
Approximate acreage added: ADDITIONAL PARCELS: Parcel Address   Reduction of property	Parcel No.	Section No.	Block No.	Lot No.	Acreage
Approximate acreage added: ADDITIONAL PARCELS: Parcel Address  Reduction of property Approximate acreage removed:	Parcel No.	Section No.	Block No.	Lot No.	Acreage
Approximate acreage added: ADDITIONAL PARCELS: Parcel Address  Reduction of property Approximate acreage removed: PARCELS REMOVED:					
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### PART II. BROWNFIELD CLEANUP AGREEMENT AMENDMENT

	VIVE DEBTING THEREBUILDING THE TOTAL VIVE THE TOTAL VIDE VIDE VIDE VIDE VIDE VIDE VIDE VIDE
<b>Existing Agreement Informati</b>	on
BCP SITE NAME:	BCP SITE NUMBER:
NAME OF CURRENT APPLICANT(S):	
INDEX NUMBER OF EXISTING AGREEMEN	NT:
EFFECTIVE DATE OF EXISTING AGREEME	ENT:
above application to amend the Br Amendment is made in accordance and state laws applicable thereto. A unchanged and in full force and ef	oplicant(s) signatures below, and subsequent signature by the Department, the rownfield Cleanup Agreement described above is hereby approved. This e with and subject to all of the BCA and all applicable guidance, regulations All other substantive and procedural terms of the Agreement will remain fect regarding the parties to the Agreement.  Stitutes a waiver by the Department or the State of New York of any rights ment or any applicable state and/or federal law or a release for any party from reement or those same laws.
Statement of Certification and	Signatures: New Requestor(s) (if applicable)
(Individual)	
Agreements. I also agree that in the ever and the terms contained in a site-specific form and its attachments is true and con	terms and conditions set forth in DER-32 <i>Brownfield Cleanup Program Applications and</i> at of a conflict between the general terms and conditions of participation set forth in DER-32 c BCA, the terms in the BCA shall control. I hereby affirm that information provided on this applete to the best of my knowledge and belief. I am aware that any false statement made meanor pursuant to section 210.45 of the Penal Law. My signature below constitutes the

requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

(Entity)

Date: \_\_\_\_\_\_ Signature: \_\_\_\_\_\_ Print Name: \_\_\_\_\_\_

I hereby affirm that I am (title) of (entity); that I am authorized by that entity to make this application; that this application was prepared by me or under my supervision and direction; and that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I acknowledge and agree to the general terms and conditions set forth in DER-32 *Brownfield Cleanup Program Applications and Agreements*. I also agree that in the event of a conflict between the general terms and conditions of participation set forth in DER-32 and the terms contained in a site-specific BCA, the terms in the BCA shall control. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the

Penal Law. \_\_\_\_\_\_ signature below constitutes the requisite approval for the amendment to the BCA

Application, which will be effective upon signature by the Department.

Statement of Certification and Signatur applicant must sign)	es: Existing Applicant(s) (an authorized representative of each
(Individual)	
am aware of this Application for an Amendment to	Cleanup Agreement and/or Application referenced in Section I above and that I that Agreement and/or Application. My signature below constitutes the requisite on, which will be effective upon signature by the Department.
Date:Signature:	Print Name:
(Entity)	
Agreement and/or Application referenced in Sectio Agreement and/or Application. the BCA Application, which will be effective upon	
Date: 4 9 5 Signature:	Print Name: Steven M. Levy
REMAINDER OF THIS AMENDMENT WILL	BE COMPLETED SOLELY BY THE DEPARTMENT
Status of Agreement:	
PARTICIPANT A requestor who either 1) was the owner of the site at the time of the disposal of contamination or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of contamination.	ownership, operation of or involvement with the site subsequent to the contamination.
Effective Date of the Original Agreement	••
Effective Date of the Original Agreement	•
Effective Date of the Amendment:	
Signature by the Department:	
DATED:	
	NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
	By:
	Robert W. Schick, P.E., Director Division of Environmental Remediation

#### SUBMITTAL INFORMATION:

Three (3) complete copies are required.

• Two (2) copies, one hard copy with original signatures and one electronic copy in Portable Document Format (PDF) on a CD, must be sent to:

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

• One (1) paper copy must be sent to the DEC regional contact in the regional office covering the county in which the site is located. Please check <u>DEC's website</u> for information on our regional offices.

FOR DEPARTMENT USE ONLY	
BCP SITE T&A CODE:	LEAD OFFICE:
PROJECT MANAGER:	

# BROWNFIELD CLEANUP PROGRAM (BCP) INSTRUCTIONS FOR COMPLETING A BCA AMENDMENT

This form must be used to add a party, modify a property description, or reduce/expand property boundaries for an existing BCP Agreement. NOTE: DEC requires a standard application to request major changes to the description of the property set forth in the BCA (e.g., adding a significant amount of new property, or adding property that could affect an eligibility determination due to contamination levels or intended land use). The application must be submitted to DEC in the same manner as the original application to participate. See Section V.H of <a href="DER-32">DER-32</a>: Brownfield Cleanup Program Applications and Agreements for further details.

SECTION II	NEW REQUESTOR INFORMATION
SECTION II Requestor Name	Provide the name of the person(s)/entity requesting participation in the BCP. (If more than one, attach additional sheets with requested information. If an LLC, the members/owners names need to be provided on a separate attachment). The requestor is the person or entity seeking DEC review and approval of the remedial program.
	If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the NYS Department of State's Corporation & Business Entity Database. A printout of entity information from the database must be submitted to DEC with the application, to document that the applicant is authorized to do business in NYS.
Address, etc.	Provide the requestor's mailing address, telephone number; fax number and e-mail address.
Representative Name	Provide the name of the requestor's authorized representative. This is the person to whom all correspondence, notices, etc will be sent, and who will be listed as the contact person in the BCA.
Representative Address, etc	Provide the representative's mailing address, telephone number, fax number and e-mail address. Invoices will be sent to the representative unless another contact name and address is provided with the application.
Consultant Name	Provide the name of the requestor's consultant.
Consultant address, etc	Provide the mailing address, telephone number, fax number and e-mail address.
Attorney Name	Provide the name of the requestor's attorney.
Attorney address, etc	Provide the mailing address, telephone number, fax number and e-mail address.
Participant/Volunteer Certification	The requestor is required to certify whether it is applying as a "Participant" or a "Volunteer" as defined in Environmental Conservation Law (ECL) 27-1405.1.
Relationship to Property	The requestor is required to identify its relationship to the property (previous owner, current owner, etc). If the requestor is not the owner, proof of access to the property throughout the BCP project must be provided (e.g. an access agreement).
SECTION III	CURRENT PROPERTY OWNER/OPERATOR INFORMATION - only include if new owner/operator or new existing owner/operator information is provided, and highlight new
Owner Name	<b>information in form.</b> Provide the name of the new owner of the property. List <u>all</u> new parties holding an interest in the property.
Owner Address, etc	Provide the new owner's mailing address, telephone number, fax number and e-mail address.
Operator Name	Provide the name of the new operator (if different from the new requestor or owner).
Operator Address, etc	Provide the new operator's mailing address, telephone number, fax number and e-mail address

affirmative. It is permissible to re-	NEW REQUESTOR ELIGIBILITY INFORMATION complete and detailed information in response to any eligibility questions answered in the ference specific sections of existing property reports; however, it is requested that such information th multiple addresses or tax parcels, please include this information for each address or tax parcel.				
1. Enforcement Action Pending	Are any enforcement actions relating to the proposed brownfield property pending against the requestor?				
2. Existing Order	Is the requestor presently subject to an order for the investigation, removal or remediation of the contamination at the property?				
3. Outstanding Spill Fund Claim	Is the requestor subject to an outstanding claim by the Spill Fund? Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.				
4. Violation of ECL Article 27	Has the requestor been determined in an administrative, civil or criminal proceeding to be in violation of i) any provision of the subject law; ii) any related order or determination; iii) any regulation implementing Title 14; or iv) any similar statute, regulation of the state or federal government? If so, provide an explanation on a separate attachment.				
5. Previous BCP Denial	Has the requestor previously applied for and been denied entry into the BCP? If so, include information relative to the application, such as name, address, Department assigned site number, the reason for denial, and other relevant information.				
6. Negligent/Intentionally Tortious Act	s Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving the handling, storing, treating, disposing or transporting of contaminants?				
7. Criminal Convictions	Has the requestor been convicted of a criminal offense i) involving the handling, storing, treating, disposing or transporting of contaminants; or ii) that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration (as that term is used in Article 195 of the Penal Law) under federal law or the laws of any state?				
8. False Statements	Has the requestor knowingly falsified statements or concealed material facts in any matter within the jurisdiction of the Department, or submitted a false statement or made use of or made a false statement in connection with any document or application submitted to the Department?				
9. BCP Application Denial	Is the requestor an individual or entity of the type set forth in ECL 27-1407.8(f) that committed an act or failed to act, and such act or failure to act could be the basis for denial of a BCP application?				
SECTION V	PROPERTY DESCRIPTION AND DESCRIPTION OF CHANGES / ADDITIONS / REDUCTIONS (IF APPLICABLE)				
NOTE: DEC requires a standard application to request major changes to the description of the property set forth in the BCA (e.g., adding a significant amount of new property, or adding property that could affect an eligibility determination due to contamination levels or intended land use). The application must be submitted to DEC in the same manner as the original application to participate. See Section V.H of DER-32: Brownfield Cleanup Program Applications and Agreements for further details.					
Property Address	Provide a street address, city/town, and zip code. For properties with multiple addresses, provide information for all.				
Tax Parcel Information	Provide the tax parcel/section/block/lot information. If requesting to modify a metes and bounds description or requesting changes to the boundaries of a site, please attach a revised metes and bounds description, survey, and/or acceptable site map to this application. Tax map information may be obtained from the tax assessor's office for all tax parcels that are included in the property boundaries. Attach a county tax map with identifier numbers, along with any figures needed to show the location and boundaries of the property. Include a USGS 7.5 minute quad map on which the property appears.				





