



Department of
Environmental
Conservation

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

PART I. BROWNFIELD CLEANUP AGREEMENT AMENDMENT APPLICATION

Check the appropriate box below based on the nature of the amendment modification requested:

☐ Amendment to [check one or more boxes below]

- ☐ Add
- ☐ Substitute
- ☐ Remove
- ☐ Change in Name

applicant(s) to the existing Brownfield Cleanup Agreement [Complete Section I-IV below and Part II]

Does this proposed amendment involve a transfer of title to all or part of the brownfield site? ☐ Yes ☐ No

If yes, pursuant to 6 NYCRR Part 375-1.11(d), a Change of Use form should have been previously submitted. If not, please submit this form with this Amendment. 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]
- ☐ Sites in Bronx, Kings, New York, Queens, or Richmond counties ONLY: Amendment to request determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit. Please answer questions on the supplement at the end of the form.
- ☐ Other (explain in detail below)

Please provide a brief narrative on the nature of the amendment:

The Site has been consolidated into one tax block and lot: Block 512, Lot 11. Additionally, the address of the Site has changed to 55 Buena Vista Avenue, Yonkers, New York 10701.

Please refer to the attached instructions for guidance on filling out this application

Section I. Existing Application Information

BCP SITE NAME: Former Teutonia Hall Site

BCP SITE NUMBER: C360085

NAME OF CURRENT APPLICANT(S): Teutonia Buena Vista, LLC

INDEX NUMBER OF EXISTING AGREEMENT: A3-0529-100 DATE OF EXISTING AGREEMENT: 11/21/05

Section II. New Requestor Information (if no change to Current Applicant, skip to Section V)

NAME

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

Is the requestor authorized to conduct business in New York State (NYS)?

☐

Yes

☐

No

- 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 (DOS) Corporation & Business Entity Database. A print-out of entity information from the DOS database must be submitted to DEC with the application, to document that the applicant is authorized to do business in NYS.

NAME OF NEW REQUESTOR'S REPRESENTATIVE

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

NAME OF NEW REQUESTOR'S CONSULTANT (if applicable)

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

Requestor must submit proof that the party signing this Application and Amendment has the authority to bind the Requestor. 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. Is this proof attached?

☐ Yes☐ No

Describe Requestor's Relationship to Existing Applicant:

Section III. Current Property Owner/Operator Information (only include if new owner/operator or new existing owner/operator information is provided, and highlight new information)

OWNER'S NAME (if different from requestor)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

OPERATOR'S NAME (if different from requestor or owner)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

Section IV. Eligibility Information for New Requestor (Please refer to ECL § 27-1407 for more detail)

If answering "yes" to any of the following questions, please provide an explanation as an attachment.

1. Are any enforcement actions pending against the requestor regarding this site? ☐ Yes ☐ No
2. Is the requestor presently subject to an existing order for the investigation, removal or remediation relating to contamination at the site? ☐ Yes ☐ No
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? ☐ Yes ☐ No
Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.
4. 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 order or determination; iii) any regulation implementing ECL Article 27 Title 14; or iv) any similar statute, regulation of the state or federal government? If so, provide an explanation on a separate attachment. ☐ Yes ☐ No
5. Has the requestor previously been denied entry to 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. ☐ Yes ☐ No
6. 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? ☐ Yes ☐ No
7. 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? ☐ Yes ☐ No
8. 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? ☐ Yes ☐ No
9. Is the requestor an individual or entity of the type set forth in ECL 27-1407.9(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? ☐ Yes ☐ No
10. Was the requestor's participation in any remedial program under DEC's oversight terminated by DEC or by a court for failure to substantially comply with an agreement or order? ☐ Yes ☐ No
11. Have all known bulk storage tanks on-site been registered with DEC? ☐ Yes ☐ No

THE NEW REQUESTOR MUST CERTIFY THAT IT IS EITHER A PARTICIPANT OR VOLUNTEER IN ACCORDANCE WITH ECL §27-1405 (1) BY CHECKING ONE OF THE BOXES BELOW:

☐ **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.

☐ **VOLUNTEER**
A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum.

NOTE: By checking this box, a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site certifies that he/she has exercised appropriate care with respect to the hazardous waste found at the facility by taking reasonable steps to: i) stop any continuing discharge; ii) prevent any threatened future release; iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous waste.

If a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site, submit a statement describing why you should be considered a volunteer – be specific as to the appropriate care taken.

Requestor's Relationship to Property (check one):

☐ Prior Owner ☐ Current Owner ☐ Potential /Future Purchaser ☐ Other _____

If requestor is not the current site owner, **proof of site access sufficient to complete the remediation must be submitted.** Proof must show that the requestor will have access to the property before signing the BCA and throughout the BCP project, including the ability to place an easement on the site Is this proof attached? ☐ Yes ☐ No

Note: a purchase contract does not suffice as proof of access.

Section V. Property description and description of changes/additions/reductions (if applicable)

ADDRESS 41-55 Buena Vista Avenue

CITY/TOWN Yonkers, New York

ZIP CODE 10701

TAX BLOCK AND LOT (TBL) (in existing agreement)

Parcel Address	Parcel No.	Section No.	Block No.	Lot No	Acreage
41-51 Buena Vista Avenue		1	512	11, 13, 15	
53-55 Buena Vista Avenue		1	512	17	
				total=	.7878

Check appropriate boxes below:

☒ Changes to metes and bounds description or TBL correction Tax Lot Merger and Address Change

☐ Addition of property (may require additional citizen participation depending on the nature of the expansion – see attached instructions)

Approximate acreage added: _____

ADDITIONAL PARCELS:

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
55 Buena Vista Avenue		1	512	11	.7878

☐ Reduction of property

Approximate acreage removed: _____

PARCELS REMOVED:

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage

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, or acceptable site map to this application.

**Supplement to the Application To Amend Brownfield Cleanup Agreement And
Amendment - Questions for Sites Seeking Tangible Property Credits in New York
City ONLY.**

Property is in Bronx, Kings, New York, Queens, or Richmond counties.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Requestor seeks a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Please answer questions below and provide documentation necessary to support answers.	
1. Is at least 50% of the site area located within an environmental zone pursuant to Tax Law 21(6)? Please see <u>DEC's website</u> for more information.	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Is the property upside down as defined below?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>From ECL 27-1405(31):</p> <p>"Upside down" shall mean a property where the projected and incurred cost of the investigation and remediation which is protective for the anticipated use of the property equals or exceeds seventy-five percent of its independent appraised value, as of the date of submission of the application for participation in the brownfield cleanup program, developed under the hypothetical condition that the property is not contaminated.</p>	
3. Is the project an affordable housing project as defined below?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>From 6 NYCRR 375- 3.2(a) as of July 1, 2015:</p> <p>(a) "Affordable housing project" means, for purposes of this part, title fourteen of article twenty seven of the environmental conservation law and section twenty-one of the tax law only, a project that is developed for residential use or mixed residential use that must include affordable residential rental units and/or affordable home ownership units.</p> <p>(1) Affordable residential rental projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, that defines (i) a percentage of the residential rental units in the affordable housing project to be dedicated to (ii) tenants at a defined maximum percentage of the area median income based on the occupants' households annual gross income.</p> <p>(2) Affordable home ownership projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, that sets affordable units aside for tenants at a defined maximum percentage of the area median income.</p> <p>(3) "Area median income" means, for purposes of this subdivision, the area median income for the primary metropolitan statistical area, or for the county if located outside a metropolitan statistical area, as determined by the United States department of housing and urban development, or its successor, for a family of four, as adjusted for family size.</p>	

PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT

Existing Agreement Information	
BCP SITE NAME: Former Teutonia Hall Site	BCP SITE NUMBER: C360085
NAME OF CURRENT APPLICANT(S): Teutonia Buena Vista, LLC	
INDEX NUMBER OF EXISTING AGREEMENT: A3-0529-1005	
EFFECTIVE DATE OF EXISTING AGREEMENT: 11/21/05 amended 4/16/07	

Declaration of Amendment:

By the Requestor(s) and/or Applicant(s) signatures below, and subsequent signature by the Department, the above application to amend the Brownfield Cleanup Agreement described above is hereby approved. This Amendment is made in accordance with and subject to all of the BCA and all applicable guidance, regulations and state laws applicable thereto. All other substantive and procedural terms of the Agreement will remain unchanged and in full force and effect regarding the parties to the Agreement.

Nothing contained herein constitutes a waiver by the Department or the State of New York of any rights held in accordance with the Agreement or any applicable state and/or federal law or a release for any party from any obligations held under the Agreement or those same laws.

Statement of Certification and Signatures: New Requestor(s) (if applicable)

(Individual)

I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. 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. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: _____ Signature: _____

Print Name: _____

(Entity)

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 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.

Date: _____ Signature: _____

Print Name: _____

Statement of Certification and Signatures: Existing Applicant(s) (an authorized representative of each applicant must sign)

(Individual)

I hereby affirm that I am a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: _____ Signature: _____

Print Name: _____

(Entity)

I hereby affirm that I am Managing Member (title) of Teutonia Buena Vista, LLC (entity) which is a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. Eric Wolf signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 8/13/15 Signature: 

Print Name: Eric Wolf

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.

☒

VOLUNTEER

A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the contamination.

Effective Date of the Original Agreement: November 21, 2005

Signature by the Department:

DATED: OCT 07 2015

NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

By: 

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

Combined Metes and Bounds

Description of BCP Site Lot 11

(Former Lots 11, 13, 15 & 17)

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

Beginning at a point along the westerly side of Buena Vista Avenue distant 266.25 feet southerly from the corner formed by the intersection of the said westerly line of Buena Vista Avenue with the southerly line of Main Street.

Running thence westerly North 75 Degrees 02 Minutes 28 seconds West, a distance of 124.20 feet to a point along the easterly line of land now or formerly of New York Central and Hudson River Railroad Company, a/k/a/ Block 7000 Lot 1;

Running thence southerly along said easterly line of land now or formerly of New York Central and Hudson River Railroad Company, on a curve bearing to the left having a radius of 2,475.00 feet and a central angle of 6 Degrees 13 Minutes and 20 Seconds, for a distance of 268.78 feet to a point;

Thence easterly on a line at right angles to Buena Vista Avenue, South 80 degrees 22 minutes 28 seconds East for a distance of 132.43 feet to a point along the westerly side of Buena Vista Avenue;

Thence northerly along said westerly line of Buena Vista Avenue, North 09 degrees 37 minutes 32 seconds East, a distance of 256.96 feet to a Point or Place of Beginning.

Excepting, however, from the above described premises so much thereof as lies between the easterly line of land of the New York Central and Hudson River Railroad and a line drawn parallel therewith and distant 1.00' easterly therefrom.

Parcel contains a two dimensional area of 34,320 square feet or 0.7878 Acres.

not responsible for the location for any underground structures, results, risks or other uncertainties. The user of the survey should be aware that written and/or verbal assessments may give others a false impression which may affect the use of the property.

The certificate has not yet been completed.

Certification on the boundary survey map signifies that the map was prepared in accordance with the current zoning Code of Practice for Land Surveyors of the Real Estate Institute of Professional and Surveyors, Inc. The certificate is limited to persons for whom the boundary survey map is prepared, to the life term, to the governmental agency, and to the existing condition based on the boundary survey map.

Unaffiliated certification in addition to a survey map bearing a licensed and approved seal is a violation of Article 1708, sub-section 2, of the New York State Education Law.

*Copies from the original of the survey map marked with an original of the seal and surveyor's initial seal, or the approved seal and their use, are considered as a violation of Article 1708, sub-section 2, of the New York State Education Law.

It has certain soil, place or parcel of land, situate, lying and being in the City of
Western, County of Rochester and State of New York, being more particularly
number and described as follows:

a) part of the working day of State Civil Service shall be 200-23
 and working time shall be determined by the observation of the working day
 b) working time shall be determined by the observation of the working day
 c) working time shall be determined by the observation of the working day
 d) working time shall be determined by the observation of the working day
 e) working time shall be determined by the observation of the working day
 f) working time shall be determined by the observation of the working day
 g) working time shall be determined by the observation of the working day
 h) working time shall be determined by the observation of the working day
 i) working time shall be determined by the observation of the working day
 j) working time shall be determined by the observation of the working day
 k) working time shall be determined by the observation of the working day
 l) working time shall be determined by the observation of the working day
 m) working time shall be determined by the observation of the working day
 n) working time shall be determined by the observation of the working day
 o) working time shall be determined by the observation of the working day
 p) working time shall be determined by the observation of the working day
 q) working time shall be determined by the observation of the working day
 r) working time shall be determined by the observation of the working day
 s) working time shall be determined by the observation of the working day
 t) working time shall be determined by the observation of the working day
 u) working time shall be determined by the observation of the working day
 v) working time shall be determined by the observation of the working day
 w) working time shall be determined by the observation of the working day
 x) working time shall be determined by the observation of the working day
 y) working time shall be determined by the observation of the working day
 z) working time shall be determined by the observation of the working day

U.S. Fish and Wildlife Service, Division of Wildlife Management, 1015 North Meade Avenue, Denver, Colorado 80202

[illegible]

Project Number:	222-N-01
-----------------	----------

Survey Date: 02/20/93
Revision Date:

Fig. No.	Site Address
----------	--------------

Drawn: <input type="checkbox"/>	
---------------------------------	--

BLOCK: 512	LOT:
------------	------

Sheet No. 117

1

THE ENGINEERING AND INSTITUTIONAL CONTROLS for the easement are set forth in more detail in the Site Management Plan ("SMP"). A copy of the SMP must be obtained by any party with an interest in the property. The SMP may be obtained from the New York State Department of Environmental Conservation, Division of Environmental Remediation, Site Control Section, 625 Broadway, Albany, NY 12233 or at derweb@dec.state.ny.gov.

This property is subject to an Environmental Easement held by the New York State Department of Environmental Conservation pursuant to Title 36 of Article 71 of the New York Environmental Conservation Law.

TRACK 1 LEGAL DESCRIPTION

Commencing at a point along the southerly line of Lot 1 in Block 342, and a distance of 33.30 feet easterly from the Point of Beginning, Point of Beginning being a point along the westerly side of Buena Vista Avenue (about 296.20 feet from the Point of Beginning) and continuing to the intersection of the said easterly line of Buena Vista Avenue with the southerly line of Main Street.

Running thence westerly on a bearing of North 75 Degrees 02 Minutes 28 Seconds West, a distance of 91.08 feet to a point along the westerly line of said road or formerly of York View Carriage and Haulage Road (Railroad Company, white Stock 1030) of 1 ft.

Running these southern along east westerly line of and how or formerly of New York Central and Hudson River Railroad Company, on a curve bearing (S) the left having a radius of 2,475 (10 feet and a central angle of 6 Degrees 13 Minutes and 32 seconds, for a distance of 289.18 feet to a point);

Thence westerly on a line at right angles to Bearer these Avenues, (S) 80 Degrees 22 minutes 28 seconds East for a distance of 90.43 feet to a point;

Thence northerly north (N) 69 Degrees 37 Minutes 32 Seconds East, a distance of 280.54 feet to the Point of Commencement.

Partial contains a two dimensional area of 25,758.7 square feet or 0.5865

TRACK 2 LEGAL DESCRIPTION

Beginning at a point along the westerly side of Buena Vista Avenue north 266.75 feet southerly from the corner formed by the intersection of the said westerly line of Buena Vista Avenue with the southerly line of Main Street;

Thence westerly on a line at right angles to Suarez-Villa Avenue North 80 degrees 22 minutes 28 seconds East, a distance of 250.00 feet to a point along the westerly side of Suarez-Villa Avenue;

Certifications

- The People of the State of New York acting through their Commissioner of the Department of Environmental Conservation
- Tachibana Ruiko Vets LLC
- Seward Title Insurance Company

BPC Site # C360085
Former Teutonia Hall Site

